

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Civil Revision Petition No.4635 of 2015

Dated 07.11.2015

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Between:

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Moparthi Lakshmi

... Petitioner

and

-

Guvvala Dhana Lakshmi and another

...Respondents

Counsel for the petitioner: Mr.Srikanth Gadipudi

Counsel for the respondent : None appeared

The Court made the following:

Order :

This Civil Revision Petition is filed against Order, dated 17-07-2015, in IA.No.246 of 2015 in OS.No.15 of 2015, on the file of the Court of the learned Principal Junior Civil Judge,

Chilakaluripet.

The petitioner filed the above-mentioned suit for permanent injunction restraining the respondents from interfering with her joint possession and enjoyment over CDEFG portion of the plaint schedule property meant for the purpose of ingress and egress and also to discharge the drain water. The petitioner has also filed IA.No.246 of 2015 seeking appointment of an Advocate-Commissioner to note down the physical features of the plaint schedule property. This Application having been dismissed, the petitioner filed this Civil Revision Petition.

It is pertinent to note that the petitioner has prepared the above IA along with the plaint as could be seen from the original date and month mentioned at the bottom of the affidavit, filed in support thereof. However, the date and month were corrected as 18-03-2015.

Be that as it may, in her affidavit, filed in support of the IA, the petitioner has mentioned that recently, the respondents have got eye sore over the plaint schedule property and are trying to encroach the CDEFG joint path way, which is meant for her ingress and egress and also to let off the drain water from her house. She has further averred that if a Commissioner is appointed to make local inspection, the existing features of the CDEFG portion can be found and proved. The lower Court has observed that it is not the case of the petitioner that some structures were raised by the respondents on the alleged joint path way marked as CDEFG and that it is for the petitioner to prove that 3½ feet lane is in existence on the northern side of the plaint schedule property for her ingress and egress.

Ordinarily, in a suit for injunction, Advocate-Commissioner is

not appointed. As rightly pointed out by the lower Court, if the petitioner is able to establish the existence of 3½ feet lane and her right to use the same, she will succeed in the suit irrespective of whether the respondents have raised structures obstructing her right or not. If any such structures are raised by the respondents, mere appointment of an Advocate-Commissioner would not improve the petitioner's case. In this view of the matter, I do not find any reason to interfere with the order of the lower Court.

The Civil Revision Petition is, accordingly, dismissed.

As a sequel to dismissal of the Civil Revision Petition, CRPMP.No.6118 of 2015, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 7th November, 2015

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