

1. Priti
2. Rishi
3. Raj
4. Ran
Vill

1. Nir
2. Bija
3. Arb
4. Aru
5. Cha

..... Defendant 1st Party Petitioners

..... Plaintiffs Respondents 1st Party

..... Defendant 2nd Party Respondent 2nd Party

..... Defendant/Respondent 3rd Party

For the Petitioners : Mr. Dronacharya, Advocate
For the Respondents : Mr.

ORAL ORDER

Heard Mr. Dronacharya learned counsel

The defendant 1st set is the petitioners in this

down the prayer for appointment of a Survey Knowing Pleader Commissioner.

Mr. Dronacharya has submitted that earlier the petition for appointment of Survey Knowing Pleader Commissioner for examining the configuration and position of the suit plot was filed on behalf of the petitioners, but the same was rejected on the ground that at that time it was rainy season. It has been further pointed out that subsequently the petitioners filed another petition praying for the same relief, but the same was also deferred on the ground that the prayer would be considered after the closure of the evidence when the relevant facts could not be shown to have been brought in evidence. It has been pointed out that after the closure of the evidence, the petitioners filed another petition praying for appointment of Pleader Commissioner, but the same has been turned down on the ground that the matter has now been posted for argument. Elaborating his submissions, the learned counsel has contended that suit has been filed by the plaintiffs for declaration of title and confirmation of possession over the suit land besides other reliefs, but the case of the defendants-petitioners is that the suit land as described in the plaint, in fact, does not exist on the spot and the land which exists on the spot is the land belonging to the defendants-petitioners

which stand amalgamated with his lands.

In this background, the emphasis has been led by the learned counsel for the petitioners that the appointment of Survey Knowing Pleader Commissioner is necessary to elucidate the location and position of the suit plot.

A supplementary affidavit has also been filed elaborating the facts and the prayer made before the learned court below in this regard.

After considering the submissions and from the materials on record, it is evident that the suit has been filed for declaration of title and confirmation of possession. The defendants-petitioners have denied the facts alleged by the plaintiffs claiming their own title over the suit land. It is manifest, therefore, that the crucial issue between the parties pertains to the title over the suit land as described in the plaint. It is well settled that the plaintiff has to stand on his own legs and the appointment of Pleader Commissioner cannot be made for the purpose of getting evidence in support of the case of the plaintiffs.

The contention that the earlier prayer in this regard was made by the petitioners which was deferred would not improve the case of the petitioners for appointment of a Survey Knowing Pleader Commissioner in the facts and circumstances of

the case. It has also been observed in the impugned order that the suit is 20 years old and is pending for argument.

In this backdrop, this Court does not find it a fit case for invoking the jurisdiction under Article 227 of the Constitution of India for interdicting the impugned order.

The present application is, accordingly, dismissed.

(V. Nath, J.)

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