

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

-
CIVIL REVISION PETITION No.4769 of 2015

ORDER:

The petitioner herein is the defendant in O.S. No.151/2007 on the file of the Court of the learned Junior Civil Judge, Wanaparthy. The respondent-plaintiff has filed the said suit seeking permanent injunction in respect of Ac.0.05 cents of land bearing Plot No.36 situated in Survey No.494/A of Pebbair Village and Mandal, Mahabubnagar District. In the said suit, the defendant filed I.A. No.189/2014 seeking appointment of Advocate Commissioner to note down the physical features of the Plot. The said application was dismissed on 03.09.2015 on the ground that there was no need to appoint an Advocate Commissioner to note down the physical features over the suit schedule property.

The plaintiff has filed the suit for permanent injunction in respect of Ac.0.05 cents of land, whereas the defendant states that in view of the partition, he is in possession of 2½ cents of land. The plaintiff states that he wanted to raise construction in his own land, whereas the defendant states that he has raised construction in his land. The present application is filed only to note down the physical features of the land.

In the circumstances, without going into the merits of the respective cases, an Advocate Commissioner can be appointed to note down the physical features and to verify whether any structures are there, and in which portion of the land the structures exist. This would settle to some extent the claim of parties with regard to rising of structures in a portion of land, covering an extent of Ac.0.05 cents.

In view of the above, the order in I.A. No.189/2014 dated 03.09.2015, passed by the learned Junior Civil Judge, Wanaparthy, is

set aside, and I.A. No.189/2014 is allowed, and it is remanded to the learned Junior Civil Judge, Wanaparthy, for appointment of Advocate Commissioner to note down the physical features of Ac.0.05 cents of land and the structures existing in the said land including their location in the land.

Accordingly, this Civil Revision Petition is allowed. No order as to costs.

Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

A.RAMALINGESWARA RAO, J

05.01.2016
MVA