

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CIVIL REVISION PETITION No.848 of 2015

ORDER:

The revision petitioner is the 4th defendant in the suit O.S.No.62 of 2014 for the reliefs of declaration of title and recovery of possession in relation to the property of Ac.8-08 guntas in 2 sub divisions viz., survey Nos.353/A and 353/AA of both equal extents as more fully described as contemplated by Order VII Rule 3 CPC in the plaint schedule, from the identity not in dispute by the plaintiffs and from the contention by the defendants on disputed identity in also claiming title over it while disputing title of the plaintiffs for entitlement to possession, while plaintiffs filed I.A.No.1045 of 2014 for appointment of Advocate Commissioner under Order XXVI Rule 9 CPC and on contest since allowed, impugned the order of the learned District Judge dated 09.02.2015 maintained the present revision.

In the course of hearing of more than one sitting ultimately the learned counsel for the revision petitioner/defendant No.4 referred supra filed memo which reads as under:

“In the above suit there is no dispute with regard to the identity of the suit land situated in survey No.353/A to an extent of Ac.4-04 gts., and survey No.353/AA to an extent of Ac.4-04 gts., situated at Faroorqnagar village and Mandal of Mahabubnagar District. The said extent of land constitutes a part and parcel of the approved lay out obtained by M/s. CSK Realtors, who purchased the land under registered sale deeds including the suit land to an extent of Ac.8-08 gts., in survey Nos.353/A and 353/AA and as such there is no need for appointment of Advocate Commissioner as was ordered in I.A.No.1045 of 2014 and therefore, the above C.R.P. is prayed to be closed without going into the merits of the case and the order under revision may kindly be set aside.”

From the very memo apart from identify of the property with full extents of survey Nos.353/A of Ac.4-04 gts., and 353/AA of Ac.4-04 gts., in 2 items in the plaint schedule, by the memo admits the defendant No.4 in possession, through defendant Nos.1 to 3 respectively as predecessors, from the identity and possession of the

property not in dispute. The only thing to be adjudicated in the trial Court is only as to the plaintiffs' entitlement to the title over the property, thereby the memo recorded to shorten the litigation consequently no need to appoint Advocate Commissioner pursuant thereto. The memo can be exhibited before the trial Court as binding on the party on the admission through counsel as a conclusive proof of the facts contained in the memo.

Accordingly and in the result, the revision petition is disposed of.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 30.08.2016
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