

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

CIVIL REVISION PETITION NO.4531 OF 2016

DATED:23-09-2016

Between:

Bora Venkata Ramana Reddy ... Petitioner

And

Kanchumurthy Hanumantha Rao
and others ... Respondents

COUNSEL FOR THE PETITIONER: Mr. G. Rama Gopal

COUNSEL FOR THE RESPONDENTS: -



THE COURT MADE THE FOLLOWING:

ORDER:

This civil revision petition arises out of order dt.01.4.2016 in I.A. No.1 of 2016 in O.S. No.879 of 2012 on the file of the II Additional Junior Civil Judge, Visakhapatnam.

I have heard Mr. G. Rama Gopal, learned counsel for the petitioner, and perused the record.

The petitioner filed the abovementioned suit for permanent injunction restraining the respondents from interfering with the suit schedule property described as dilapidated well. The respondents filed a written statement wherein they have pleaded that the well is a public well and the petitioner is unlawfully drawing water therefrom. The petitioner has filed I.A. No.1 of 2016 under Order XXVI Rule 9 of the Code of Civil Procedure, 1908, for appointment of an Advocate Commissioner along with survey of the ground situation and physical features of the plaint schedule property. This application having been dismissed by the lower Court, the unsuccessful applicant/plaintiff filed this revision petition.

After hearing the learned counsel for the petitioner, I am of the opinion that the revision petition is devoid of merit. The question whether the well is a dilapidated well or a live well has no relevance for considering the relief claimed by the petitioner, namely, decree for permanent injunction restraining the respondents from interfering with his property. If the petitioner is able to show that the property is a private property and situated within the boundaries of the property owned by him, even if the well is not dilapidated the petitioner is entitled to the relief of injunction restraining the respondents from using the well. In this view of the matter, I do not find any necessity for the petitioner to seek appointment of an Advocate Commissioner.

The civil revision petition is accordingly dismissed.

As a sequel to dismissal of the civil revision petition, C.R.P.M.P.
No.5886 of 2016 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

23-09-2016

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