

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

Civil Revision Petition No.3025 of 2016

Order:

The petitioner has come up with the above revision petition challenging an order passed by the Court below allowing the application of the respondents/defendants for appointing a Mandal Surveyor to localize the plaint schedule property.

2. Heard the learned counsel for the petitioner.

3. On 08-7-2016, notice was ordered to the respondents and an interim stay was granted. The personal notice sent by the petitioner's counsel, returned with the endorsement "refused". Therefore, service is taken to be completed.

4. The first application in I.A.No.170 of 2015 was already allowed appointing an Advocate-Commissioner. Not satisfied with the report filed by him, the respondents took out a second application for appointment of a Mandal Surveyor to identify the property and to localize it. The same was allowed by the Court below on the ground that the Commissioner had not localized the property with the assistance of a Surveyor.

5. The approach adopted by the Court below is not proper. The suit was one for a bare injunction restraining the defendants from interfering with the plaintiff's possession and enjoyment of the suit property. In suits of that nature, it is not proper for the Courts to appoint Commissioners to collect evidence. The Court below already appointed a Commissioner. If the Commissioner's report is not in favour of one or the other of the parties, it is open to them to file objections to the report and take the matter further. But the parties cannot file a fresh application for the appointment of a Surveyor and go on an evidence-hunting spree. Therefore, the revision is allowed and

the impugned order is set aside.

The miscellaneous petitions, if any, pending in this revision shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

29th July, 2016.

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