

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CIVIL REVISION PETITION No.52 of 2016

ORDER:

The defendant in O.S.No.47 of 2013 on the file of Senior Civil Judge, Dharmavaram, Anantapuram District, impugned the order of the lower Court dated 09.12.2015 in I.A.No.246 of 2015 in O.S.No.47 of 2013 under Order XXVI Rule 9 C.P.C. appointing advocate commissioner to measure and demarcate the plaint schedule property of Ac.2.00 cents which is out of the extent of plaintiff in Ac.5.22 cents which is claimed out of the total extent of Ac.10.44 cents in Survey No.548 with the allegation of the said Ac.2.00 cents of the plaintiff, the defendant encroached by laying pipeline under the guise as if that of him and thereby it requires to measure and demarcate as to the vanka whether situated in Survey No.547 or 548 and to demarcate the plaint schedule and find out there from there is any encroachment by defendant of plaintiff's land including by running of the pipe line. It is no doubt also asked by plaintiff to demarcate the land of the defendant in Survey No.550 and ordered by the lower Court even same is beyond the scope of the suit lis. Thus, impugning the same, the revision is filed with the self same contentions raised before the lower Court and as above.

2. Heard both sides and perused the material on record.

3. In a suit for declaration and recovery of possession in claiming out of Survey No.548 of Kunukuntla Village total extent Ac.10.44 cents of which plaintiff got Ac.5.22 cents and out of which the defendant allegedly encroached the plaintiff schedule extent of Ac.2.00 cents within the boundaries described and once same is in dispute, it requires appointment of an advocate commissioner for measurement and demarcation of the Survey No.548 total extent with reference to boundary survey numbers and find out the plaintiff's land and to ascertain the said extent of encroachment with reference to revenue records and documents of title to reduce much oral evidence. Thus, the lower Court's order is confined to that extent of measuring and demarcate survey No.548 with reference to abutting survey number not to measure to demarcate entire land of defendant and as per revenue record and documents of title and find out the total extent and the extent of the plaintiff therein and any encroachment by the defendant therein and also to ascertain the vanka is in survey Nos.548 or 547 as the case may be and as to the pipe line is running in any part or portion of plaintiff's land. The lower Court is directed to amend the commission warrant as per the directions supra and to answer any work memos within the scope of the warrant to execute with surveyor's assistance and

with notice to parties or advocates on record of parties fixing date of execution..

4. Accordingly, the Civil Revision Petition is allowed in part. There is no order as to costs.

5. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Dr. B.SIVA SANKARA RAO, J

Date:08-09-2016
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