

HONOURABLE SRI JUSTICE S.RAVI KUMAR
CIVIL REVISION PETITION No.1156 OF 2012

Dated 8-2-2016

Between: _____

_____ Mohd.Sanavulla (died) per L.Rs.and others.

_____..Petitioner.

And:

_____ Shaik Rahamtullah and another

_____..Respondents.

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ORDER:

This revision is preferred questioning the order dated 18-1-2012 in I.A.No.3098 of 2006 in O.S.No.1024 OF 2006 on the file of Principal Junior Civil Judge, Eluru.

Revision petitioners herein are defendants 1 to 4 and 6 to 8 in the above referred O.S.No.1024 of 2006 which is filed for recovery of possession. Plaintiff filed I.A.No.3098 of 2006 for appointment of advocate commissioner to fix the boundary marks between the properties of plaintiff and defendants and to note down extents of site of plaintiff and the encroachments besides noting down existing physical features with the help of mandal surveyor and file his report.

This application was opposed contending that revision petitioner herein never encroached any portion of suit property and that there are no grounds to appoint advocate commissioner.

Trial court on a consideration of contentions and rival contentions of both parties felt that measurement of site of plaintiff and defendants would clinch the issue like whether there is any portion of encroachment by defendants or any plaintiff site is merged with the defendants and for that reason, trial court appointed advocate commissioner who was directed to take the assistance of mandal surveyor and to submit his report.

Heard arguments.

Advocate for revision petitioner mainly contended that this suit is filed in the year 2006 and plaintiff has not pressed for its disposal and only after completion of oral evidence on plaintiff's side, he has insisted for appointment of advocate commissioner and the court below without taking the objection of the respondents into consideration, appointed advocate commissioner and that the same would cause prejudice to the revision petitioner herein.

I have perused the material papers including impugned order dated 18-1-2012.

Admittedly, the suit is filed for recovery of suit property on the ground that petitioners herein have encroached into the plaintiffs' land. In the commission petition, the prayer is to fix boundaries between the properties of plaintiffs and defendants and then to decide as to the extent of encroachment with the help of mandal surveyor. If really petitioners have not encroached any property of the plaintiffs, there cannot be any objection for them to measure property. Petitioners can give work memo to the commissioner to measure the land in the manner they want and the advocate commissioner can measure the land both as per the request of plaintiffs and as per the request of revision petitioners with the help of mandal surveyor and submit his report and ultimately trial court can decide the correctness of the report of the advocate commissioner with reference to evidence adduced on behalf of both parties. There is no jurisdictional error nor any illegality in the order of the trial court to be interfered by this court in revisional jurisdiction.

On a scrutiny of material, I am of the view that there are no grounds to interfere with the order impugned and the revision is devoid of merits.

Accordingly, this Civil Revision Petition is dismissed. However, petitioners are at liberty to file work memo before commissioner and thereafter, if any objections to the Commissioner. No costs.

As a sequel to the disposal of this revision, the
Miscellaneous Petitions, if any, pending, shall stand
dismissed.

JUSTICE S.RAVI
KUMAR

Dated 8-2-2016.
Dvs.

HONOURABLE SRI JUSTICE S.RAVI KUMAR

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Dvs