

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL REVISION PETITION NO.3775 OF 2015

ORDER:

The plaintiff is the petitioner herein. He filed O.S.No.385 of 2008 on the file of the Senior Civil Judge, Khammam, seeking permanent injunction in respect of Ac.0.35 gts of land situated in Survey No.531/E in Ammapalem Village, Khammam District, within specific boundaries. He got temporary injunction in the suit in I.A.No.1704 of 2008. He filed I.A.No.320 of 2009 seeking appointment of Advocate Commissioner on the ground that even after granting temporary injunction by the trial Court, the defendant is interfering with the possession. The said application was dismissed by the trial Court on 03.07.2015 holding as under.

“As already mentioned above, the petitioner has filed suit seeking relief of permanent injunction and the suit schedule property is shown as Ac.0.35 gts in Survey No.531/E situated in Ammapalem Village and specific boundaries were mentioned in the said property. As the plaintiff filed the suit in respect of specific property with specific boundaries and only for the relief of injunction, the initial burden lies on the plaintiff to establish his case that he has been in possession and enjoyment of the said property within the boundaries mentioned therein and the Court cannot appoint an advocate-commissioner to survey the land and to demarcate the same, which amounts to collecting evidence on behalf of the plaintiff. Therefore, I am of the opinion that the relief sought for by the petitioner cannot be accepted. Accordingly, I hold on the point that the petitioner is not entitled to the relief of appointment of advocate commissioner to survey the suit schedule property and to fix the location of the same. In the result, the petition is dismissed, but without costs.”

I am in agreement with the order passed by the trial Court and it does not warrant any interference.

The Civil Revision Petition is, accordingly, dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand dismissed.

(A.RAMALINGESWARA RAO, J)

20th January 2016
RRB