

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

CIVIL REVISION PETITION NO.2400 OF 2016

DATED:15-07-2016

Between:

Smt. Adusumilli Swarajya Laxmi
and others ... Petitioners

And

Karanam Varahau
and others ... Respondents

COUNSEL FOR THE PETITIONERS: Mr. Balaji Medamalli

COUNSEL FOR THE RESPONDENTS: -

THE COURT MADE THE FOLLOWING:

ORDER:

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This civil revision petition arises out of order dt.29.3.2016 in I.A. No.146 of 2016 in O.S. No.368 of 2007, on the file of the XIII Additional District Judge, Gajuwaka, Visakhapatnam.

The petitioners along with respondent Nos.5 and 6 filed the above mentioned suit for declaration that the possessory agreement of sale dt.1.3.2007 executed by respondent Nos.1, 3 and 4 in favour of respondent No.2 is void, illegal and unauthorized, and also for permanent injunction restraining them from alienating the suit schedule property in favour of any third parties. At the stage of completion of the petitioners' side evidence, they have filed the above mentioned I.A. under Order XXVI Rule 9 of the Code of Civil Procedure, 1908 (CPC) for appointment of an Advocate Commissioner to identify the suit schedule property in support of adangal pahani and field map book. In the affidavit filed in support of this application, the petitioners have averred that they have in all filed six suits and thereafter they have got measured the plots through the Mandal Surveyor, Gajuwaka, who surveyed and identified their plots and thereafter submitted a report to the Tahsildar, Gajuwaka, and that the latter has issued Ex.A.37 survey report. The petitioners further averred that since respondent No.2 himself has stated in his written statement that if the plots are identified by the Advocate Commissioner with the help of revenue records, the issue will be clear, they sought for appointment of an Advocate Commissioner for the above mentioned purpose. As this application has been dismissed, the petitioners have filed this civil revision petition.

Having regard to the nature of the relief claimed by the petitioners and the steps taken by them to secure Ex.A.37 survey

report, it is wholly unnecessary for them to seek appointment of an Advocate Commissioner and that too when the trial is at advanced stage. If the petitioners so choose they are entitled to examine the surveyor who has submitted Ex.A.37 report and then it would be for respondent No.2 to establish his own plea by producing relevant evidence. Therefore, I do not find any merit in this civil revision petition and the same is accordingly dismissed.

As a sequel to dismissal of the civil revision petition, C.R.P.M.P. Nos.3058 and 4246 of 2016 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

15-07-2016

bnr