

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION NO.621 of 2016

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ORDER:

This civil revision petition is filed under Article 227 of the constitution of India, challenging the order dated 16.12.2015 passed in I.A.No.872 of 2015 in O.S.No.86 of 2014 by the Junior Civil Judge, Kodad, Nalgonda District.

The petitioners are defendants in the suit. The respondent/plaintiff filed the suit for perpetual injunction. The respondent filed the present I.A seeking appointment of Commissioner to note down the physical features of A and B schedule properties and whether there exists a cart track between 'A' and 'B' schedule properties and for report. The learned Junior Civil Judge, Kodad, allowed the said I.A. The same is challenged in the present revision petition.

Learned counsel for the petitioners strenuously contended that allowing of I.A would lead to gathering of evidence. Since earlier applications filed by the respondent for grant of temporary injunction and for appointment of Commissioner were not allowed by the Court below, the respondent once again filed the present I.A to drag on the litigation.

Having heard the arguments of the learned counsel for the petitioners and having perused the material available on record, I do not find any reason to interfere with the order of the Court below, since appointment of Advocate Commissioner is limited to the effect that existence or otherwise of the cart-way in the 'B' schedule property. The Court below, taking into consideration of the controversy involved that there is no other way to reach 'A' schedule except through 'B' schedule, came to the conclusion to appoint Advocate Commissioner to find out whether there exists any cart-track in 'B' schedule property

or not. It is not possible to bring evidence with respect to the existence or otherwise of cart-track, especially, in villages as there would not be any revenue maps etc., in the agriculture fields. The view taken by the learned Junior Civil Judge is pragmatic and practical and there being no illegality and no prejudice would be caused to the petitioners by noting down the physical features, particularly, by reporting whether there exists any cart track in 'B' schedule property or not. Therefore, I do not see any illegality in the order passed by the Court below warranting interference of this Court under Article 227 of the Constitution of India.

Accordingly, the civil revision petition is dismissed. As a sequel, pending miscellaneous petitions, if any, shall stand closed.

CHALLA KODANDA RAM, J.

12th February, 2016
Js.