

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CIVIL REVISION PETITION No.5596 of 2016

ORDER:

Heard both sides at length.

In the revision maintained by the defendants impugning the order of the lower Court dated 26.09.2016 in their application in I.A.No.613 of 2016 for appointment of an advocate commissioner to demarcate the survey Nos.123, 124 and 103/18 with reference to the boundaries including Exs.B2, A7, A8 and B1 in saying there is mis-description in the sale deed of the eastern boundary as road and up to road the survey Nos.123 and 124 are not extended and between the road and the survey Nos.123 and 124 there is S.No.103/18 that is not conveyed and taking advantage of the wrong description of the eastern boundary particularly for the sale deeds covered by Exs.A7 and A8, the plaintiff maintained the suit for injunction with the description in the plaint schedule of eastern boundary road and the total extent of Ac.3-17 guntas both for S.Nos.123 and 124 mentioned what is conveyed S.No.123 is only Ac.1-10 guntas and nothing beyond, thereby trial Court went wrong in dismissing the application for appointing advocate commissioner for localization, hence to set aside the impugned order and allow the application for commissioner appointment as prayed for.

The learned counsel for the respondent/plaintiff impugning the contentions submit that the order of the lower Court no way requires interference that too revision within the limited scope that to scope from the suit lis is only for bare injunction of the plaint described property to prevail over survey numbers and the

defendants did not point out there really having regard to the alleged wrong description of the eastern boundary as road as if in S.No.103/18 and had it been true so far of the sale deed executed long back at least for execution thereby sought for dismissal of the application.

Heard and perused the material on record. Considering the scope of the revision and even for arguments sake that if at all boundaries are shown prevail of survey numbers that is eastern boundary up to road even either S.No.103/18 is form part of it, it is the matter to be decided from the oral and factual evidence to be lead before the trial Court in the limited scope of bare injunction based on title with previous possession referring to the recitals in the sale deed. Hence, with the impugned order, to interfere there is nothing.

Accordingly and in the result, the revision petition is dismissed without prejudice to the contest of the both sides in the main suit and any other remedy left open to the defendants.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 05.01.2017
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