

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No. 3707 of 2017

ORDER:

1) Aggrieved by the order, dated 19.12.2016, passed in I.A.No.287 of 2015 in O.S.No.166 of 2014 on the file of the I Additional Junior Civil Judge, Chittoor, wherein an application filed under Order VII Rule 14 (3) of C.P.C. to give specific direction to the Mandal Surveyor to localize plot Nos.14, 18 and 19, shown in the unapproved layout plan already submitted to the Surveyor by incorporating the said directions with particulars of Plot No.14, as detailed in the warrant, was dismissed, the present Civil Revision Petition came to be filed.

2) The facts in issue are as under:

Respondent No.1 herein filed O.S.No.166 of 2014 seeking permanent injunction, restraining the defendants, their men, agents, servants etc. from in any way interfering with his peaceful possession and enjoyment of the suit schedule property including construction work that is going on in the suit schedule property. Pursuant to the request made by the petitioners, an advocate-commissioner came to be appointed to note down the existing physical features and

to measure the schedule property with the assistance of the Mandal Surveyor and to file his report. The commissioner fixed the time for survey on 29.03.2015. On that day, the counsel for the respondent No.1 herein did not allow the Surveyor to localize the property stating that as there is no specific direction to the Mandal Surveyor to localize the lands covered by the sale deeds, basing on un-approved layout plan. Hence, the petitioners herein filed I.A.No.287 of 2015, seeking specific direction to the Mandal Surveyor. After taking into consideration the rival submissions made, the trial Court dismissed the said petition. Challenging the same, the present Civil Revision Petition came to be filed.

3) Learned counsel for the petitioners would submit that the plaintiff has not allowed the Mandal Surveyor to localize the property as there was no specific direction to the Mandal Surveyor to localize the property as per the un-approved plan. As such they sought a specific direction to the Mandal Surveyor, for conducting the survey.

4) In spite of service of notice, there is no representation on behalf of the respondents herein.

5) A perusal of the material on record would show that an advocate-commissioner was appointed to note down the existing physical features and measure the schedule property

with the assistance of the Mandal Surveyor and file his report with a rough sketch. The advocate-commissioner, fixed the date of visit on 29.03.2015 and issued notices to all the concerned along with Mandal Surveyor. On the said date, Mandal Surveyor and Mandal Thalari went to the spot along with office record (FMB) to assist the advocate-commissioner. Though the advocate-commissioner was directed to note down the physical features of the schedule property, he requested the Mandal Surveyor to fix up plot Nos.14, 18 and 19 in Sy.No.188/ 6 of Iruvaram Revenue Village of Chittoor Mandal by furnishing a Xerox copy of a layout plan. Since the layout plan produced is not an authenticated one and not signed by any one and as the said layout was not incorporated in the office records, the Mandal Surveyor was not able to fix the plots as requested by the Advocate-Commissioner. The same was informed to him vide letter dated 30.03.2015.

6) It is to be noted that since the un-approved layout plan is not incorporated in the revenue office records and Sy.No.188/ 6 is not sub-divided as per the records, the Mandal Surveyor was unable to locate the plots as per the said plan. Hence, it is not proper for this Court to direct the Mandal Surveyor to localize the property, in the absence of an approved lay out.

7) Having regard to the above, I see no illegality or irregularity in the order passed by the Court below. Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs.

8) Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE C. PRAVEEN KUMAR

10.11.2017
gkv

