

THE HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION NOS.3532 & 3365 of 2017

COMMON ORDER :

These civil revision petitions came to be filed assailing the orders dated 23.06.2017, passed in I.A.Nos.346 and 345 of 2017 in O.S.No.404 of 2015, wherein the applications filed seeking re-entrustment of warrant to the pervious Court Commissioner to revisit the suit schedule property and to identify the land in Survey No.617/ A, admeasuring Ac.1.00 cents, which is part and parcel of plaint A-Schedule property and to permit the plaintiff to amend the plaint A-Schedule survey number as S.No.617/ A in place of S.Nos.617 and 618, were rejected.

2. The facts in issue are as under:

The plaintiff filed a suit seeking permanent injunction restraining the defendants in respect of suit schedule property and the suit was posted for arguments on his behalf on 13.04.2017. It is stated that the defendants got examined the Tahsildar, Chandragiri Mandal as DW1 and 9th defendant as DW2. Thereafter, he filed I.A.No.1064 of 2015 seeking appointment of Court Commissioner, who subsequently visited the suit schedule property and filed his report wherein it is stated that he could not find warrant A-Schedule property out of warrant B-Schedule property. During the evidence of DWs. 1 and 2, it was categorically stated that Survey No.617/ A is on the north, and the adjacent to the plaintiff's patta land covered in Survey Nos.612/ A, 612/ B and 612/ C. DW1 categorically stated that Survey No.617/ A is not converted as house sites and therefore, to demarcate the land in Survey No.617/ A admeasuring Ac.1.00 cents, it

has to be identified by the Court Commissioner. Hence, I.A.No.346 of 2017 came to be filed. Whereas, I.A.No.345 of 2017 came to be filed seeking to amend the plaint A-Schedule survey number as S.No.617/ A in place of S.Nos.617 and 618. After considering the matter in detail, the trial Court dismissed both the applications. Aggrieved thereby, the present revisions came to be filed.

3. Learned counsel for the petitioner would submit that he came to know about the variation in the survey numbers only after they adduced evidence and immediately thereafter they moved I.A.No.345 of 2017. He further submits that appointment of Court Commissioner is essential; else it would defeat the interest of the case of the petitioner.

4. At this stage, learned counsel for the respondents submitted that the arguments in the said case are also over and it is posted 'for judgment', today.

5. Having regard to the fact that arguments are over and the suit is also posted 'for judgment', the question of accepting the request of the petitioner at this stage does not arise and hence both the revisions are dismissed. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any pending, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

08.09.2017
vnb