

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION NO.3570 OF 2011

ORDER:

This Civil Revision Petition is filed under Section 227 of the Constitution of India challenging the order dated 16.03.2011 in I.A.No.1601 of 2010 in O.S.No.813 of 2013 passed by the II Additional Junior Civil Judge, Ranga Reddy District.

2. The petitioners herein are the defendants in the main suit. They filed I.A.No.1601 of 2010 under Order 26 Rule 9 read with Section 151 C.P.C. to appoint an Advocate Commissioner to survey, demarcate, physical verification and location of the land in Sy.Nos.283 and 284 with reference to Sy.No.285 of Aushapur Village, Ghatkesar Mandal with the help of Surveyor alleging that they sought perpetual injunction in the main suit in respect of land in Sy.No.285, having purchased the same under registered sale deed and claiming that they are in possession and enjoyment of the property. As there is a threat to invade legal right of the defendants, they have filed a suit for injunction simpliciter in the suit and filed written statement-cum-counter claim denying the possession, right and title of the property claiming perpetual injunction against the plaintiff restraining the plaintiff and its men from interfering with the peaceful possession and enjoyment of the property in Sy.No.285 of Aushapur Village, Ghatkesar Mandal, Ranga Reddy District and the schedule is also described in para 6 of the counter claim.

3. The boundaries of the schedule property in the suit and counter claim are extracted hereunder:

The boundaries of the schedule property:

The land to an extent of Acs.29.37 guntas in Sy.Nos.283 and 284 situated at Aushapur Village, Ghatkesar Mandal, Ranga Reddy District is:

North: Cart truck

South: Land belongs to plaintiff

East: Sy.Nos.285 and 282

West: Sy.No.287 and Kondapur boundary

The boundaries of the counter claim property:

The land to an extent of Acs.3.17 guntas in Sy.No.285 situated at Aushapur Village, Ghatkesar Mandal, Ranga Reddy District within the following boundary.

North: Court road

South: Land in Sy.No.282

West: Land in Sy.No.284

The land in Sy.No.285 of the defendants is adjacent to the land of the plaintiff on the eastern side. Since the western boundary is described as land in Sy.No.284, which is adjacent and allegedly purchased by the plaintiff under the sale deed, virtually there is no dispute with regard to identity of Sy.No.284 and the defendant is claiming only perpetual injunction in respect of land in Sy.No.285 within the boundaries mentioned above. In such a case, the appointment of Commissioner in a suit for injunction simpliciter is not necessary.

The relief claimed in the petition is to appoint an Advocate Commissioner to locate and demarcate the land in Sy.Nos.283, 284 and 285 of Aushapur Village, Ghatkesar Mandal, Ranga Reddy District, for such purpose, the Commissioner cannot be appointed

as it is beyond the scope of the suit and therefore, denial of relief by the trial Court to appoint an Advocate Commissioner is in accordance with law. As such, I am unable to exercise the jurisdiction under Section 227 of the Constitution of India to reverse and set aside the order passed by the trial Court.

In the result, the Civil Revision Petition is dismissed confirming the order dated 16.03.2011 in I.A.No.1601 of 2010 in O.S.No.813 of 2013 passed by the II Additional Junior Civil Judge, Ranga Reddy District. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this petition shall stand closed.

JUNE 14, 2017
ssp

M. SATYANARAYANA MURTHY, J

