

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

CIVIL REVISION PETITION No.4389 of 2017

ORDER:

Assailing the order dated 03.06.2016 passed in I.A.No.405 of 2014 in O.S.No.469 of 2014 by the Senior Civil Judge, Palamaner, wherein the request of the petitioner to direct the advocate commissioner to take the assistance of the Mandal Surveyor, V.Kota Mandal, for execution of commissioner warrant, was rejected, the present civil revision petition came to be filed.

2. The plaintiff filed O.S.No.189 of 2011 on the file of Junior Civil Judge, Chittoor, to declare the sale deed dated 17.01.2011, executed by the first defendant, in favour of second defendant, as void and for grant of permanent injunction restraining the defendants, their men and agents from in any way interfering with the peaceful possession and enjoyment of the plaintiff with regard to plaint "B" schedule property. On point of jurisdiction, the said suit was transferred and renumbered as O.S.No.469 of 2014 on the file of Senior Civil Judge, Palamaner. It is to be noted that earlier, while the said suit was pending at Chittoor, the petitioner filed two applications viz. I.A.Nos.546 and 547 of 2011. When the suit was transferred to Palamaner, the applications were re-numbered as I.A.Nos.405 and 404 of 2011 respectively. I.A.No.404 of 2014 came to be filed seeking appointment of an advocate commissioner and I.A.No.405 of 2011 came to be filed seeking a direction to the advocate commissioner to take the assistance of Mandal Surveyor while executing the warrant. I.A.No.404 of 2014, seeking appointment of advocate commissioner was allowed on

29.04.2011, pursuant to which, he visited the site and thereafter submitted a report in the month of January, 2014. Till the submission of a report by the Advocate Commissioner, no objection was raised with regard to the orders in I.A.No.405 of 2014. Even after submission of report, the parties kept quite, without insisting for an order to be passed in I.A.No.405 of 2014. Two years thereafter, an order came to be passed rejecting the request of the plaintiff in giving a direction to the advocate commissioner to take the assistance of Mandal Surveyor, for executing the warrant. Challenging the same, the present revision came to be filed.

3. As seen from the material on record, the order in the present I.A. i.e., I.A.No.405 of 2014, seeking a direction to the advocate commissioner to take assistance of Mandal Surveyor came to be passed, after the order in I.A.No.404 of 2014. The record shows that the petitioner did not take any steps for getting both the I.As. disposed of. At the same time, the record also does not anywhere indicate that the petitioner has filed any objection to the report of the advocate commissioner in I.A.No.404 of 2014. No reasons are forthcoming as to why the petitioner kept quite without filing any objections to the report of the advocate commissioner, which was submitted in the month of January, 2014. Therefore, when the petitioner himself has not raised any objection with regard to submission of the report by the advocate commissioner, there is no point in now seeking a direction to the advocate commissioner to conduct re-survey by taking the assistance of mandal surveyor. Infact, record discloses that earlier in O.S.No.10 of 1993, wherein a dispute was raised with regard to the very same property and between the very same

parties, an advocate commissioner was appointed, who with the help of Mandal Surveyor submitted a report. Basing on the said report O.S.No.10 of 1993 came to be dismissed.

4. Having regard to the circumstances stated above, I feel that there are no grounds to interfere with the orders passed by this Court at this length of time.

5. Accordingly, the Civil Revision Petition is dismissed. No costs.

As a sequel thereto, Miscellaneous Petitions, if any, pending shall stand closed.

Date:13.10.2017.
vnb



C.PRAVEEN KUMAR, J