

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CIVIL REVISION PETITION No.1281 of 2017

ORDER :

Heard both sides. Perused the impugned order of the Principal Junior Civil Judge, Warangal, in I.A.No.480 of 2016 in O.S.No.109 of 2015, dated 20.10.2016, and the grounds urged in the revision petition.

2. On the application of the revision petitioner/defendant for appointment of an Advocate Commissioner for localization of Sy.Nos.185 and 186 and in claiming the property of the plaintiff of 330.28 sq. yards in Survey No.186 of Potharajunagar, Hasanparthy Village and Mandal, Warangal District, is not in existence and plaintiff falsely claiming for non-est property, the lower Court dismissed the application.

3. Undisputedly, in a suit for recovery of possession based on title or even suit for bare injunction based on right and title, as the case may be, the success of the plaintiff depends upon his own strength and not on weakness of defence, but for to say where plaintiff out of preponderance of probabilities able to make out a case of entitlement, the burden is not static but shifts on the defendant, from the settled law, more particularly from the expressions of the Apex Court in **R.V.E.Venkatachala Gounder vs. Arulmigu Viswesaraswami and V.P. Temple¹** and another expression **Smt.Dayamathi Bai V. Sri**

¹ (2003) 8 SCC 752

K.M.Shaffi². From that propositions, coming to the facts, the defendant's case if at all to say plaintiff is claiming any property of him and it requires for demarcation either in Survey Nos.185 and 186 or any extent out of Survey No.186, as the case may be, that is not the specific case of the defendant, thereby there is nothing to interfere with the impugned order, but for to say it will not prevent him in future to file any application for demarcation of the property of the plaintiff and the defendant among others in Survey Nos.185 and 186, as the case may be.

4. Accordingly, the civil revision petition is disposed of.

Miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

6th November 2017.

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Dr. B. SIVA SANKARA RAO, J

² (2005) 2 Civil L.J. 214