

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

Civil Revision Petition No.6321 of 2017

Order:

Aggrieved by the order of the Trial Court refusing to summon the Commissioner of the Municipality with a direction to produce all the records from the year 1980 to 1999, the defendant in a suit for declaration and possession has come up with the above revision.

2. Heard Mr. Thadikonda Koteshwara Prasad, learned counsel for the petitioner.

3. The suit filed by the respondents was for a declaration and recovery of possession based upon the registered sale deed of the year 1972, preceded by the documents of title of the years 1938 and 1952. The defence of the petitioner is adverse possession. The fact that the petitioner is in possession is not disputed and this is why the suit itself is for possession.

4. Therefore, an adverse possession is something that the petitioner should establish independently and not by summoning the Commissioner of the Municipality to produce the records from the years 1980 to 1999. It is the animus which is important to prove adverse possession. The three conditions viz., *nec vi*, *nec clam* and *nec precario* have got to be established by the petitioner not by adopting this tactic. Hence, the dismissal of the application is perfectly in order. Consequently, the civil revision petition is dismissed.

The miscellaneous petitions, if any, pending in this revision shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

30th November, 2017.
Ak



HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

Civil Revision Petition No.6321 of 2017



30th November, 2017.
(Ak)