

HON'BLE SRI JUSTICE S.V.BHATT

C.R.P.No.6503 OF 2017

ORDER:

The plaintiff in O.S.No.73 of 2014 is the revision petitioner.

The revision petitioner filed O.S.No.73 of 2014 for declaration of title and recovery of possession.

The revision petitioner filed I.A.No.608 of 2016 for appointment of Advocate Commissioner to survey the land in Sy.No.1366, identify Plot No.5 at Subashnagar, Karimnagar, with the help of Mandal Surveyor etc. Through the instant application, the revision petitioner prays for either surveying or identifying 315 sq.yards in Sy.No.1366 at Subashnagar locality of Karimnagar Town. The learned District Judge, through order impugned in the revision, rejected the prayer. Hence, the revision.

Mr.Venkateshwar Varanasi contends that the reasoning of the trial Court is completely unsustainable and, in the case on hand, the identity of property is one of the issues for consideration. Therefore, the appointment of Advocate Commissioner helps the court in deciding the issues. Therefore, the prayer for appointment of Advocate-Commissioner ought to have been accepted. He further contends that if the Advocate-Commissioner is appointed to survey the land with the help of Mandal Surveyor, the exact location of subject matter of suit is appreciated and the documents on which the respective parties are relying upon are also appreciated while recording a finding.

The trial Court rejected the prayer by recording the following findings:

“The Sy.No.1366 is commonly claimed by the petitioner and respondent. Likewise, both the petitioner and respondent are claiming their land in Plot No.5. However, the petitioner is claiming said Sy.No. and Plot No. are situated in Subhashnagar. According the respondent, the suit Sy.No. and Plot No.5 are located in Vavilalapalli of Karimnagar.

It appears that the petitioner does not have the suit land identified on ground, hence, this attempt to locate and identify the suit land on ground by getting the Advocate Commissioner appointed. As is established principle, Advocate Commissioner can not appointed for collection of evidence. More so, when the petitioner is claiming to be owner and also possessor of 219 Sq.Yards of suit land excluding the land occupied by the Temple. As such, this Court sees no merits in the petition”.

The revision petitioner to successfully maintain the revision is required to show the illegality in the order impugned in the revision and the ground attracting the supervisory jurisdiction of this Court under Article 227 of the Constitution of India. Even assuming the contentions raised by the counsel are available, they do not go that far to upset the findings impugned in the revision.

Revision fails and is, accordingly, dismissed. There shall no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

24th November, 2017

Lrkm

S.V.BHATT, J