

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

C.R.P.No.7061 of 2017

Date: 15.12.2017

Between:

Smt.Vadda Shobha,
W/o. Madhukar Reddy, aged:46 years,
Occ: Housewife, R/o. Katriyala Village,
Wardannapet mandal, Warangal ... Petitioner

And

Burra Janardhan S./o.Anajaiah
Aged 71 years, Retd. Employee,
R/o.Katriyala village, Wardhannapet
Mandal, Warangal district
and two others ... Respondents

Counsel for the Petitioner : Mr. Ajay Kumar

Counsel for the Respondents : -----

The Court made the following:



Order :

The respondent No.1 filed I.A.No.907 of 2013 under Order 39 Rules 1 and 2 C.P.C. and the Trial Court on exhaustive consideration of the respective claims and after perusing the material on record, including Commissioner's report, held that the balance of convenience is in favour of the plaintiff and held that the respondents cannot obstruct the petitioner from using the pathway to enter his land and, therefore, granted temporary injunction as prayed for.

2. Aggrieved thereby, the defendants filed C.M.A.No.60 of 2015 and it was specifically contended that there is no path way as per the village map and as per the Commissioner's report and, therefore, the Trial Court erroneously granted injunction. The appellate Court considered the said pleas, looked into the record including the report of the Commissioner, *vis-à-vis* the village map and held that the Commissioner's report to the extent of non-availability of path way beyond Survey No.2 was found to be erroneous and considering all other aspects of the Commissioner's report, and the village map and the material on record, the appellate Court also opined that the plaintiff has made out a *prima facie* case and balance of convenience is in his favour and, therefore, upheld the decision of the Trial Court.

3. The orders passed by the Courts below are at the interlocutory stage and after considering the balance of convenience of the respective parties and on the basis of the material on record. In this revision, the Court is not inclined to upset the said finding of fact at interlocutory stage and no case is made out for interference.

4. Civil Revision Petition is accordingly dismissed at the admission stage. No order as to costs.

5. As a sequel, miscellaneous petitions if any, stand dismissed.

(P.NAVEEN RAO, J)

Date: 15th December, 2017

msb

