

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL REVISION PETITION No.1330 of 2013

ORDER:

The revision petitioners-petitioners-plaintiffs, aggrieved over the order, dated 19.11.2012, in I.A.No.783 of 2012 in O.S.No.113 of 2012 on the file of the Principal Junior Civil Judge, Tadepalligudem, preferred the present revision petition under Article 227 of the Constitution of India.

In the aforesaid interlocutory application under Order XXVI Rule 9 of CPC., the petitioners sought appointment of an Advocate Commissioner to note down the physical features of the petition schedule property.

The Court below, observing that the petitioners cannot seek appointment of an Advocate Commissioner to note down the physical features, as it is in the direction of collection of evidence and that the possession is to be decided on the basis of evidence adduced by parties, dismissed the application.

Heard Sri Koney Satyananda Rao, learned counsel for the petitioners, and Sri B.V.S.S. Balakrishna Ranjit, learned counsel for respondent Nos1 and 2.

Learned counsel for the petitioners would submit that the order under challenge suffers from material irregularity, for the reason that the petitioners have not chosen to record who is in possession of the petition

schedule property, but only to note down the physical features as to existing of a building in the petition schedule property or not.

The suit is for perpetual injunction restraining the respondents – defendants, amongst whom the District Collector and the Revenue officials to the level of Village Revenue Officer are arrayed as defendant Nos.3 to 7 and even against them, perpetual injunction is sought for. When the petitioners' definite case is that they have been in possession of the petition schedule property having constructed a house thereon, to prove their possession over the schedule property, necessarily they will have to tender the relevant documents, such as payment of electricity consumption charges, receipts for water consumption charges, if water connection is provided, and in case tax is paid to the local authority, either demand notices or the receipts of payment of taxes. Therefore, request to appoint an Advocate Commissioner to note down the physical features, certainly, cannot be acceded to. Thus, it indicates that only with an intention to collect evidence, the aforesaid interlocutory application is filed, which is rightly dismissed by the Court below. There is no merit in the present revision.

Hence, the Civil Revision Petition is dismissed. No order as to costs.

Miscellaneous Petitions, if any, pending in the present revision, stand closed.

A. SHANKAR NARAYANA, J

13.04.2018

v v