

HON'BLE SRI JUSTICE S.V. BHATT

C.R.P.No.1383 OF 2017

ORDER:

Heard learned counsel for appearing for the parties.

Defendant No.7 in O.S.No.35 of 2013 in the Court of the Junior Civil Judge, Vemulawada is the revision petitioner. The 1st respondent herein filed the suit for the relief of perpetual injunction restraining the defendants from interfering with the possession and enjoyment of 1st respondent of the plaint schedule property.

In I.A.No.173 of 2013, *ad interim* injunction has been granted and the contesting parties have filed counter and are contesting the same. The revision petitioner filed I.A.No.467 of 2016 alleging that the 1st respondent filed the suit with vague boundaries and wrong description. The open area pleaded by 1st respondent is not available on ground. The plaint schedule does not disclose dimensions of the suit property. The omission in furnishing details is deliberate and designed to mislead the Court. Hence, the revision petitioner prayed for appointment of an Advocate Commissioner, both to note down the physical features of suit land and localize the suit schedule/survey number etc. The trial Court dismissed the application. Hence, the revision.

Mr.LPrabhakar Reddy, counsel for petitioner, contends that the trial Court, if had accepted the prayer for appointment of Advocate Commissioner, the report would have assisted the trial Court in adjudicating the *lis*. Further, there is no prohibition for

appointing Advocate Commissioner at the interlocutory stage as well.

I have perused the record and noted the submissions of Mr.LPrabhakar Reddy.

Prima facie, this Court is of the view that the trial Court did not dismiss the application as not maintainable. The trial Court in the fact situation of the case by taking note of the averments in the affidavit filed in I.A.No.467 of 2016 was of the view that either at this stage or at a later stage, the 1st respondents/plaintiff in Court below had to prove right, title and exclusive possession either for temporary injunction or perpetual injunction. It further held that the revision petitioner ought not to have taken the responsibility at this stage of the matter. After perusing the plaint and the written statement filed by the revision petitioner herein, this Court is of the view that the IA was dismissed for valid and tenable reasons upon consideration of relevant circumstances necessary for disposing of I.A.No.467 of 2016. No ground is made out warranting interference against the order impugned in the revision.

The revision fails and is, accordingly, dismissed. The learned trial Judge considers disposing of the suit as expeditiously as possible preferably within four months from the date of receipt of a copy of this order. There shall be no order as to costs.

Pending miscellaneous petitions, if any, stand closed.

S.V.BHATT, J

30th August, 2018
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