

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

Civil Revision Petition No.2426 of 2012

ORDER:

Heard Sri A.S.C. Bose, learned counsel for the petitioner and Mrs. M.V.S.S. Naga Sudha, learned counsel, for Sri K. Sarvabhouna Rao, learned counsel for the respondents 1 to 4.

2. The request made in I.A. No.351 of 2011 in O.S. No.173 of 2008 on the file of Principal Junior Civil Judge, Yellamanchili, would read thus:

“This petition is filed under Order 26 Rule 9 read with Section 151 of C.P.C. prayed that to appoint an advocate commissioner to note down the physical features of existence of the plaint plan GHII and J point and to localize it by filing his plan and report with the assistance of Mandal Surveyor, Nakkapalli.”

3. The affidavit filed by the petitioner in paragraph-3 would show thus:

“3. At this juncture it is very essential and necessary to note whether there is plaint plan GHII way is in existence or not. If it is done the evidential portion will be happened, regarding the question of its existence. As this will be done by appointing an advocate commissioner.”

4. The said request was rejected by the Court below by its order dated 14.03.2012 holding that as per the record, it is clear that it is filed for collection of evidence, and, therefore, the petition is not maintainable as the suit itself is for perpetual injunction.

5. From the contents of paragraph-3 extracted in the above, it would show that the petitioner intends to collect evidence.

If support is required the relevant portion is not only just to note down the physical features but also to localize as could be seen from the relief sought for. In a way, the petitioner intends to collect evidence to substantiate his claim, which is impermissible.

6. There is no merit in the Civil Revision Petition and, accordingly, the same is dismissed. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the Revision shall stand closed.

A. SHANKAR NARAYANA,J

Dt. 19.03.2018

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