THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.4137 of 2018

ORDER:

This Revision is filed assailing the order dt.23-06-2018 in I.A.No.336 of 2018 in O.S.No.214 of 2011 of the Principal Junior Civil Judge, Chittoor.

2. Petitioners are defendants in suit.

3. The 1st respondent filed the suit against petitioners for declaration of his title, perpetual injunction and mandatory injunction in respect of an extent of Ac.0.70 cents in Sy.No.430/2 of Muthireval Revenue village within the specified boundaries.

4. Written statement was filed by petitioners in 2011 taking a plea that a portion of the plaint schedule property had been acquired for the National Highway and also pleading that the petitioners' land is in Sy.No.450.

5. In the year 2014, I.A.Nos.833 and 834 of 2014 were filed to direct the Tahsildar, Puthalapattu Mandal and the Revenue Divisional Officer, Chittoor to issue certificate to the petitioners to produce the acquisition proceedings relating to portion of 1st respondent's land.

6. These two applications were allowed on 10-10-2014. Even after they were allowed, petitioners took no steps to obtain the said certificate.

7. After 1st respondent's evidence was closed, when the matter was coming up for the evidence of petitioners, they filed I.A.No.336 of 2018 to issue summons to the Revenue Divisional Officer, Chittoor and to direct him to cause production of the entire land acquisition proceedings in respect of the suit schedule property.

8. It was contended in the said application that the said proceedings are essential and that the 1st respondent had suppressed the same.

9. The 1st respondent filed a counter contending that the acquired property has nothing to do with the plaint schedule property and stated that the plaint schedule property is on the western side of Sy.No.430/2 while the acquired property is on the eastern side of the said survey number. He also stated that an Advocate-Commissioner had been appointed and he had filed a report stating that the petitioners have encroached the plaint schedule property and also projected the slab by violating the *status quo* order. The 1st respondent also pointed out that this application is filed only to drag on the proceedings.

10. By order dt.23-06-2018, the Court below dismissed the said application. It took note of the fact that after I.A Nos.833 and 834 of 2014 were allowed on 10-10-2014, no steps had been taken by petitioners to obtain the land acquisition proceedings. It also stated that once the Advocate-Commissioner had given a report and was also examined as a witness, it was open to the petitioners to elicit from him

further details and if necessary, seeks re-visit of the Commissioner and re-measurement of the property, but the petitioners did not do so, though the Advocate-Commissioner was examined on 11-12-2015.

11. Challenging the same, this Revision is filed.

12. Learned counsel for petitioners contended that summoning of the Revenue Divisional Officer is for production of the entire land acquisition proceedings and is necessary in order to prove the defence of petitioners and denial of such opportunity by the Court below is not proper. It is also reiterated that 1st respondent has suppressed the facts relating to acquisition of a portion of the property and the acquisition proceedings would throw light on the matters involved in the suit.

13. Admittedly, the suit was filed in the year 2011 and written statement was filed by petitioners in the year 2011 taking a stand that a portion of the plaint schedule property had been acquired for National Highway purposes. The petitioners themselves filed I.A.Nos.833 and 834 of 2014 to summon the Tahsildar, Puthalapattu Mandal and the Revenue Divisional Officer, Chittoor for issuance of a certificate to them to produce the land acquisition proceedings. They were allowed on 10-10-2014. Thereafter petitioners did nothing to contact the said Officers and procure the acquisition proceedings. No explanation is forthcoming from the petitioners why they did not do anything to get the acquisition proceedings from the said Officials in

spite of the order, which was passed in the year 2014 in the above I.As.

14. Also, no reason is assigned why under the Right to Information Act, 2005 information regarding the acquisition of petitioners' property was not sought for the last 7 years. It is thus clear that the petitioners, by their own lethargy and negligence, have not chosen to collect the evidence in support of their pleadings.

15. In any event, since the Advocate-Commissioner has been appointed and he filed a report with measurements and he is also examined on 11-12-2015, petitioners ought to have asked for re-visit by the Advocate-Commissioner or further measurement of the properties by 1st respondent in case there was doubt about the measurements given by the 1st respondent but they did not do so.

16. I am therefore of the opinion that the Court below did not commit any error of jurisdiction in refusing to allow I.A.No.336 of 2018.

17. Therefore, the Civil Revision Petition fails and it is accordingly dismissed at the stage of admission. No costs.

18. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 24-08-2018
Vsv