

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

Civil Revision Petition No.1422 of 2016

ORDER:

The present Civil Revision Petition, filed under Article 227 of the Constitution of India, is directed against the order dated 02.03.2016 in I.A. No.146 of 2016 in O.S. No.614 of 2012 on the file of Additional Senior Civil Judge, Tirupati.

2. The petitioners/plaintiffs in the suit, who are the revision petitioners herein, filed I.A. No.146 of 2016 under Order 7 Rule 14 (3) read with Section 151 of Civil Procedure Code, 1908, (for short, 'C.P.C.') requesting to receive the rough sketch on the ground that it is intended to clear the ambiguity in the rough sketch earlier annexed to the plaint and also in view of the rough sketch filed by the defendants and the rough sketch filed by the Court Commissioner.

3. Learned Additional Senior Civil Judge, Tirupati, referring to the contentions of both parties, opined that the plaintiffs, since already filed rough sketch annexing it to the plaint by showing A, B, C, D properties and the defendants also filed rough sketch and the Advocate-commissioner has also filed rough sketch of the plaint schedule properties, again filing another rough sketch after amendment of plaint will cause prejudice to the defendants and that the rough sketch now sought to be received shows that it is an improved rough sketch by showing some other properties also, which are not finding place in the rough sketch originally filed with the plaint, and such improved rough sketch will cause prejudice to the rights of the defendants, refused to receive and dismissed the

application. Aggrieved over the same, the present Civil Revision Petition is filed by the petitioners-plaintiffs.

4. Heard Sri Balaji Medamalli, learned counsel for the petitioners and Sri A. Chandraiah Naidu, learned counsel for the respondents.

5. At the outset, it is to be stated that the order under challenge does not suffer from any legal infirmity, obviously for two reasons. Firstly, when the plaintiffs presented the plaint he annexed thereto a rough sketch for proper identity of the suit schedule properties, and bound by the description of the properties mentioned in the plaint schedule and delineated in the plaint plan. Thus, the rough sketch is part and parcel of the plaint, though, it is a rough sketch. To introduce yet another rough sketch in place of the rough sketch annexed to the plaint, proper procedure has to be followed by the petitioners, which is not done despite earlier, amending the plaint with the permission of the Court. Secondly, when the defendant has also filed rough sketch, in case rough sketch filed by the defendants varies with the rough sketch annexed to the plaint, the plaintiff was obligated with the duty to file rejoinder questioning the correctness of the rough sketch filed by the defendants. That appears to have not done. Second reason is, the order is explicit that the petitioners/ plaintiffs travelled beyond the scope of the properties described in the plaint schedule as is evident from the order, since the order under challenge reflects that the petitioners/plaintiffs have even added some

more properties in the rough sketch now sought to be received which is impermissible.

6. This apart, the Court Commissioner has also filed yet another rough sketch having conducted inspection, in which case the parties would have submitted work memos to the Commissioner before execution of warrant of commission. It is, of course, not known whether the petitioners-plaintiffs have filed such work memos or not. Even otherwise, when the Commissioner has drawn the sketch and submitted to the Court along with his report, in case the petitioners-plaintiffs are aggrieved it is open for them to file objections and resort to the procedure asking the Court to summon the Commissioner in case the Court Commissioner's sketch is outside the scope of warrant of commission. Instead of resorting to such procedure making an application to receive yet another rough sketch on the premise that only to clear the ambiguity the said rough sketch is sought to be introduced as a document is absolutely impermissible. There is no merit in the present Civil Revision Petition.

7. Hence, the Civil Revision Petition is dismissed directing the parties to bear their own costs.

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

A.SHANKAR NARAYANA

Dt. 04.06.2018
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