

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION No. 4945 of 2018

ORDER:

This Civil Revision Petition is filed against the order, dated 30.07.2018, passed by the learned II Additional District Judge, Hindupur, in I.A.No.297 of 2018 in O.S.No.19 of 2007.

Petitioners-plaintiffs filed the said suit for declaration of title and consequential relief of permanent injunction and for recovery of possession of the suit schedule property. They assert that along with the affidavit-in-chief of D.W.1, the respondents-defendants filed photographs showing sisal fibre extraction from Aloe leaves and the same are without any scope of identity and not authenticated. They also assert that oral evidence would not help the Court to arrive at the conclusion with respect to the existing physical features of the schedule land of 750 acres. In view of the same, they filed I.A.No.297 of 2018 in the said suit for appointment of an Advocate Commissioner to note down various physical features of the suit schedule property and take photographs or video with the help of Photographer or Videographer. In the said I.A., the respondents-defendants filed counter by stating that since the suit is filed by the petitioners-plaintiffs for declaration of title and consequential relief of permanent injunction and for recovery of possession of the suit schedule property, the burden lies on them to prove their right and title over the schedule property and therefore, there is no

requirement to note down the physical features of the suit schedule property by appointing the Advocate Commissioner; that the petitioners-plaintiffs filed the said I.A. only to drag on the suit proceedings and that respondent No.1 is suffering from the ailments of old age and his memory is also fading day by day and the petitioners are intending to prolong the matter till the mental power of defendant No.1 get impaired. After considering the respective submissions, the trial Court dismissed the said I.A.

Sri C. Hanumantha Rao, learned counsel for the petitioners, submits that no prejudice would be caused to the respondents, if an Advocate Commissioner is appointed to note down the physical features of the suit schedule property. He further submits that the respondents had in fact filed about 100 photographs and to prove validity or otherwise of the same, it would be necessary to appoint an Advocate Commissioner to conduct local inspection. He further submits that as on date, vast extent of land has been taken over by APIIC. He also submits that the report of Advocate Commissioner would aid the Court in disposing of the /is between the parties and thereby, prays for allowing the Civil Revision Petition.

Sri O.Manohar Reddy, learned counsel for the respondents, opposes the Civil Revision Petition.

It is to be noted that the schedule property mentioned in the aforesaid I.A. is more than 1500 acres of land and that vast extent thereof has already been taken over by the Government,

which in turn, handed over the same to APIIC. In the circumstances, in all fairness, the petitioners-plaintiffs ought to have excluded such land, which is not in their possession and enjoyment. It is to be noted further that the petitioners sought declaration of right and title over the suit schedule property, injunction and recovery of possession from the defendants and even assuming that vast extent of the suit schedule property is occupied by APIIC or other, it would not in any manner aid the Court with regard to disposal of the suit, that too, when it is the matter to be decided with respect to the rights of the parties in the suit schedule property. From this, it is clear that the petitioners-plaintiffs filed the aforesaid I.A. only to drag on the suit proceedings. Therefore, the order under revision passed by the Court below dismissing the I.A. filed by the petitioners-plaintiffs for appointment of Advocate Commissioner to note down the physical features of the schedule property cannot be found fault with.

For all those reasons, this Court is not inclined to interfere with the order under revision.

The Civil Revision Petition is accordingly dismissed.

Consequently, miscellaneous applications, if any shall stand dismissed. No costs.

CHALLA KODANDA RAM, J

Dt:06.09.2018
kdl

