

HON'BLE SRI JUSTICE S.V.BHATT

C.R.P. No.6336 OF 2012

ORDER:

The defendant in O.S No.343 of 2010 in the Court of Principal Senior Civil Judge at Warangal, is the revision petitioner.

The revision petitioner filed I.A. No.1078 of 2012 in I.A. No.362 of 2010 for appointment of Advocate Commissioner to note down the physical features of Item Nos. 1 and 2 of the suit schedule property.

The case of revision petitioner is that respondent herein filed I.A. No.362 of 2010 for temporary injunction claiming that he purchased suit schedule property admeasuring Acs.3-00 gts. The revision petitioner filed written statement with counter claim stating that he is the owner and possessor of Acs.13-39 gts. and that the suit schedule property is not existing. Therefore, it is necessary to appoint Advocate Commissioner to note down the physical features of the suit schedule property and the counter claim schedule property.

Respondent herein filed counter affidavit, *inter alia*, contending that the application is filed to drag on the proceedings and to stall disposal of I.A. No.362 of 2010.

The learned trial Judge dismissed I.A. No.1078 of 2012 and the operative portion of the impugned order reads thus:

“ In the instant case, it is the case of the petitioner that he has dug two wells and fitted two electricity motors in the counter claim schedule property and by appointment of Advocate Commissioner the petitioner intends to prove the same which is not permissible as it amounts to

collection of evidence. The petition under Order 39 Rule 1 and 2 vide I.A. No.362/2010 is coming for arguments of the petitioner herein. The respondent herein who is the petitioner in I.A. No.362/10 is insisting for disposal of the said petition. In this view of the matter this petition is dismissed.”

I have perused the record and noted down the submissions made by the counsel appearing for the parties. This Court is of the view that the order impugned in the revision does not warrant interference under Article 227 of the Constitution of India. Revision fails and is accordingly dismissed. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

Date:28.11.2018
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S.V.BHATT, J