

HON'BLE SRI JUSTICE S.V. BHATT

C.R.P.No.5116 OF 2018

ORDER:

Heard Mr.K.Venumadhav appearing for petitioners.

Plaintiffs in O.S.No.103 of 2012 in the Court of the Principal Junior Civil Judge, Huzurabad are the revision petitioners. The petitioners filed the suit for the relief of perpetual injunction restraining respondent No.1 from interfering with the possession and enjoyment of petitioners of the plaint schedule property.

The revision petitioners filed I.A.No.1181 of 2017 under Order XXVI Rule 9 CPC seeking appointment of Advocate Commissioner for fixing boundaries to the suit schedule property with the assistance of Assistant Commissioner, Survey and Land Records Department, Karimnagar. In the affidavit filed in support of the application, it is stated that the petitioners are joint owners and possessors of an extent of Acs.6-00 in Sy.No.418 of Ghanmukula Village of Veenavanka Mandal, Karimnagar District. The suit land was allotted to 1st petitioner's share in the oral partition and since then he is in possession and enjoyment of the same. The 1st petitioner gifted Acs.4-22 Gts in favour of 2nd petitioner. It is further stated that 1st defendant filed written statement admitting the entire extent of Acs.6-00 ownership of petitioners, without proper boundaries. It is also stated that earlier the petitioners filed I.A.No.640 of 2013 for similar relief and the same was dismissed on 16.09.2013. By order dated 17.07.2018, the trial Court dismissed the application under revision. Hence, the revision.

Mr.K.Venumadhav, counsel for petitioners, contends that the trial Court, if had accepted the prayer for appointment of Advocate Commissioner, the report would have assisted the trial Court in adjudicating the *lis*. Further, there is no prohibition for appointing Advocate Commissioner at the interlocutory stage as well.

I have perused the record and noted the submissions of Mr.K.Venumadhav.

Prima facie, this Court is of the view that the trial Court did not dismiss the application as not maintainable. The trial Court in the fact situation of the case by taking note of the averments in the affidavit filed in I.A.No.1181 of 2017 was of the view that if the Advocate Commissioner is appointed, it is nothing but collection of evidence. After perusing the plaint and the written statement filed by the revision petitioners herein, this Court is of the view that the IA was dismissed for valid and tenable reasons upon consideration of relevant circumstances necessary for disposing of I.A.No.1181 of 2017. No ground is made out warranting interference against the order impugned in the revision.

The revision fails and is, accordingly, dismissed. The learned trial Judge considers disposing of the suit as expeditiously as possible preferably within four months from the date of receipt of a copy of this order. There shall be no order as to costs.

Pending miscellaneous petitions, if any, stand closed.

S.V.BHATT, J

01st October, 2018
Lrkm