

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

C.R.P.No.6004 of 2018

Date: 12.10.2018

Between:

Karu Pothuraju
S/o.Late Appanna,
70 years, Retd. Employee,
R/o.Kanithi Village,
Gajuwaka mandal,
Visakhapatnam district
and two others.

...

Petitioners

And

Chekka Apparao
S/o.Late Appanna,
56 years, Talayari,
R/o.Vompolu village,
Muangapaka mandal,
Visakhapatnam district.

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Respondent



Counsel for the Petitioners : Mr. B.Siva Kesava Reddy

Counsel for the Respondent : ----

The Court made the following:

Order:

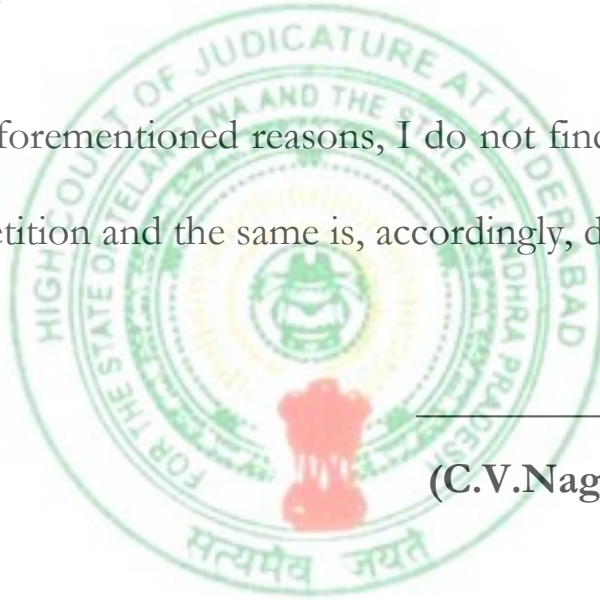
This civil revision petition is filed against order dated 04.09.2018 in I.A.No.112 of 2018 in O.S.No.30 of 2011 on the file of the II Additional Junior Civil Judge, Anakapalle.

2. The respondent filed the aforementioned suit for perpetual injunction, restraining the petitioners from interfering with the possession of his property. The petitioners filed a written statement resisting the suit. After closure of evidence on plaintiff's side, the petitioners examined DWs.1 and 2. At that stage, the petitioners filed the aforementioned I.A. for appointment of Advocate Commissioner to conduct local inspection of the plaint schedule property, measure the house property and note down the physical features as to the location of the house, vacant site and the road separating both the properties. This application having been dismissed by the lower court, the defendants filed this civil revision petition.

3. As could be seen from the averments made in the affidavit filed in support of the I.A., the petitioners denied existence of the plaint schedule property and a specific plea has been taken that the plaintiff's house and vacant site are not adjoining each other and that they are separated by a road. The petitioners sought appointment of Advocate Commissioner to note down the above mentioned aspects, which was declined by the court below.

4. As observed by the lower court, the law is well settled that in a suit for perpetual injunction, ordinarily an Advocate Commissioner is not appointed. At any rate, both the parties have adduced the evidence on their respective sides. Being the plaintiff, the burden lies on the respondent to prove his case. When the respondent himself has not sought for appointment of an Advocate Commissioner, I am of the opinion that it is wholly unnecessary for the petitioners to seek appointment of an Advocate Commissioner, to disprove the case of the respondent.

5. For the aforementioned reasons, I do not find any merit in this civil revision petition and the same is, accordingly, dismissed.



(C.V.Nagarjuna Reddy, J)

Date: 12th October, 2018

msb

