

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Civil Revision Petition No.6967 of 2018

Date: 27.11.2018

Between:

Dekka Gangunaidu

.. Petitioner

and

Dekka Sree Ramulu and 3 others

.. Respondents

Counsel for the Petitioner :

Mr.Mangena Sree Rama Rao

The Court made the following:



Order:

Feeling aggrieved by Order, dated 25-10-2018, in IA.No.103 of 2018 in OS.No.85 of 2011, whereby the I Additional Junior Civil Judge, Anakapalle, directed the Advocate-Commissioner appointed in IA.No.140 of 2017 to revisit the suit schedule property; note down the existence of other ways on the eastern and western sides of the plaintiff's property; and to answer the work memos given by both parties, the plaintiff filed the present Civil Revision Petition (CRP).

I have heard Mr.Mangena Sree Rama Rao, learned Counsel for the petitioner, and perused the record.

A perusal of the record shows that the respondents have filed IA.No.103 of 2018 to direct the Advocate-Commissioner appointed in IA.No.140 of 2007 to re-visit the plaint schedule property and also to note down the existence of other ways on the eastern and western sides of the plaintiff's property and to answer the work memos filed by both sides or to appoint a new Advocate-Commissioner to note down the same. The Court below, in its order, observed that, while it is the duty of the Advocate-Commissioner to obtain work memos from both sides and answer all the points raised therein, he failed to do so, so as to consider the plea of the respondents that alternative path ways adjoining the suit schedule property are in existence on eastern and western sides. The Court below further observed that the report of the Advocate-Commissioner is helpful to it to resolve the real dispute in the case.

Though this Court has queried with the learned Counsel for the petitioners as to what distinct prejudice would be caused to his clients, if a fresh Advocate-Commissioner is appointed for reporting whether alternative pathways, on eastern and western sides of the suit schedule property, are in existence or not, the learned Counsel failed to answer the same. Appointment of the Advocate-Commissioner falls in the realm of the discretion of the Court below. Once the Court exercises its discretion for proper reasons, this Court in exercise of its supervisory jurisdiction under Article 227 of the Constitution of India, would not interfere with the same unless it resulted in failure of justice. As the petitioner failed to prove any such failure, I do not find any merit in this CRP and the same is, accordingly dismissed.

As a sequel to dismissal of the CRP, Miscellaneous Petitions, pending if any, stand disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 28th November, 2018
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