

HONOURABLE SRI JUSTICE P. NAVEEN RAO

CIVIL REVISION PETITION No. 7475 of 2017

Date : 13.3.2018

Between:

Kothapalli RAvinder S/o Ulaiah
39 years
R/o H No. 18-3-299/3
Near Pochamma Temple,
Kashikunta, Urusu, Warangal

Petitioner

And

Kore Raj Kumar S/o late Komuraiah
40 years
R/o H No. 2-140/1, Rangampalli village,
H/o Jaggaiahpalli
Jammikunta mandal, Karimnagar district and others

Respondents

The Court made the following:



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ORAL ORDER:

Heard learned counsel for petitioner Sri Ghanshamdas Mandhani and learned counsel for respondents Sri B Narayana Reddy.

2. Revision petitioners are defendants 1 to 3, 5 and 7. First respondent herein is plaintiff and respondents 2 and 3 are defendants 4 and 6. Parties are referred to as they are arrayed before the Court below.

3. Plaintiff filed suit in O.S. No. 835 of 2016 for grant of permanent injunction against defendants, claiming that he is owner of land to an extent of Ac.6.05 guntas in Survey No. 328/ of Timmapur village, Warangal district but physically he is in possession only to an extent of Ac.5.13 guntas and defendants are trying to interfere with his possession and enjoyment. Defendants denied the claim of the plaintiff on ownership and possession of the extent of land and denied the title of the vendor through whom plaintiff claimed to have purchased the property. It is further contended that the document through which the alleged purchase was made does not contain boundaries of the property and therefore disputed the claim of the plaintiff about the ownership and possession and specifically asserted that the claim is false.

4. Plaintiff filed I A No. 486 of 2016 praying to appoint Advocate Commissioner to inspect petition schedule land and note down physical features of the suit land. This plea was also opposed by the defendants contending that as ownership itself is denied and in the absence of boundaries specified in the document through which alleged purchase was made by the plaintiff, and plaintiff failed to explain physical features of the property, the allegation of changing the boundaries or interfering with the possession, does not arise. It is further asserted that when

there are no existing physical features, the question of appointment of Advocate Commissioner to note down physical features, does not arise and petition is intended to collect evidence.

5. Plaintiff claims in the suit that though he purchased Ac.6.05 guntas, he is in possession of only Ac.5.13 guntas. The sale deed through which he claims to have purchased the said property does not contain physical features. Thus, it is not known how suit schedule property is described in the schedule. As rightly contended by the defendants, in the absence of physical features in the document through which ownership is claimed by the plaintiff, which issue requires consideration in the suit, question of appointment of Advocate Commissioner to note down physical features, even before trial has commenced is not warranted. Further, in suit for simple injunction, question of appointment of Advocate Commissioner to localize property in dispute, may not be to the aid of the Court in deciding the issue involved in the suit. Having regard to the peculiar facts of this case, the trial Court erred in granting relief and accordingly the order under revision dated 24.11.2017 is set aside. However, it is made clear that the observations made herein above are only to consider the order in I A No. 486 of 2016 and uninfluenced by the observations made above, the trial Court shall proceed to consider the respective contentions urged in the suit. No costs. Pending miscellaneous petitions are closed.

DATE:13.3.2018
TVK

P NAVEEN RAO,J

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