

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

Civil Revision Petition No.695 of 2019

ORDER :

Heard the counsel for petitioners, and Sri T. Rajgopallavan, counsel for respondents.

2. This Civil Revision Petition is filed challenging the order dt.12.02.2019 passed in I.A.No.15 of 2019 in O.S.No.68 of 2011 on the file of the Senior Civil Judge, at Narayanpet, refusing to appoint an Advocate-Commissioner for conducting local inspection at the instance of petitioners to note down houses located in the suit schedule property.

3. The petitioners herein are defendants in the above suit.

4. The respondent nos.1 to 10 filed the above suit for declaration that respondent nos.2 to 10 are owners of the suit schedule property, and for recovery of possession thereof by evicting petitioners therefrom.

5. In the Written Statement, a defence was taken by petitioners that respondents are not the owners of the subject property, that the subject property was sold by the deceased-1st defendant to several persons during his lifetime, and that houses were constructed in the suit schedule property.

6. According to petitioners, the purchasers are also necessary parties to the suit, and therefore, the suit itself was not maintainable.

7. The Court below held in the impugned order that there is no dispute about possession of petitioners of the suit schedule property, and it is the duty of petitioners to prove that they are *bona fide* purchasers and have title over the suit schedule property; and that when there is no dispute with regard to identity of the suit schedule property or about the location of houses, having regard to the nature of relief sought in the suit, there is no necessity to appoint an Advocate-Commissioner.

8. Assailing the same, the present Civil Revision Petition is filed.

9. The counsel for petitioners contended that it is necessary to appoint an Advocate-Commissioner to note the number of houses in the suit schedule property in order to show that the owners of such houses are necessary parties to the suit.

10. In my opinion, there is no necessity to appoint an Advocate-Commissioner to conduct local inspection and note down houses which are located in the suit schedule property because there is no dispute about the location of the land or any allegation of encroachment, and it is the contention of respondents that petitioners are in possession of the property.

11. In any event, the plea about the other persons also being in possession of the suit schedule property having been raised in the suit, the Court below would consider the said plea when it decides the above suit.

12. I therefore do not find any necessity to appoint an Advocate-Commissioner.

13. Accordingly, the Civil Revision Petition fails, and it is dismissed. No order as to costs.

14. As a sequel, miscellaneous petitions pending if any in this Civil Revision Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 06.06.2019

Ndr/*

