

HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.1060 of 2018

ORDER:

This Revision is filed assailing the order dt.09-01-2018 in I.A.No.59 of 2014 in O.S.No.26 of 2012 of the Junior Civil Judge at Atmakur-A.

2. Petitioners are plaintiffs in the suit.
3. They filed the suit against respondents for a perpetual injunction restraining the respondents from interfering with their peaceful possession and enjoyment of the suit schedule property in Sy.Nos.230/A4 and 230/E1 of extent Ac.0.25 gts and Ac.1.27 gts respectively at Nandimalla village.
4. Written statement was filed opposing the suit claim and in the written statement, it was specifically asserted by respondents that they also have lands in the same Sy.No.230 towards eastern side of the suit land and they never disputed the right of the petitioners in the land. They denied that they have interfered with the possession and enjoyment of the petitioners.
5. Pending suit, respondents filed I.A.No.59 of 2014 stating that they also have land in Sy.No.231, which is towards eastern side of the suit land, that there is a boundary dispute between the parties and to settle the same, an Advocate-Commissioner be appointed to fix the

boundaries of Sy.No.230 and 231 with the help of a Surveyor from the Office of the Survey and Land Records, Mahaboobnagar District.

6. Counter-affidavit was filed by petitioners stating that earlier to the filing of the suit, both parties have approached the Assistant Director of Survey and Land Records, Mahaboobnagar, but the said survey did not take place because of a technical problem and so there is no necessity to appoint an Advocate-Commissioner since the Assistant Director of Survey and Land Records is seized of the matter.

7. By order dt.09-01-2018, the Court below allowed the said application. It referred to the decisions of this Court on the point and held that dispute is with respect to boundaries which the parties share and even if an Advocate Commissioner is appointed, the Court will still apply its mind to appreciate the other evidence on record. It also held that there is no proceeding filed to show that an authority was appointed to conduct the survey and there is also no evidence to show any such proceedings for survey were ever conducted or stopped due to technical problem, as contended by the petitioners.

8. Assailing the same, this Revision is filed.

9. Heard learned counsel for petitioners and learned counsel for respondents.

10. Learned counsel for petitioners contended that already the Assistant Director of Survey and Land Records is seized of the matter and there were requests made way back in 2012 to the Tahsildar to

demarcate the lands and some panchanama was also prepared at that time with sketch.

11. Though some documents were produced in this Court by the learned counsel for petitioners, the fact remains that these documents were not produced before the Court below and therefore no importance can be given to the said plea.

12. Since the issue involved in the suit is a boundary dispute between the petitioners and respondents, no prejudice is caused to the petitioners if an Advocate-Commissioner is appointed and the Advocate-Commissioner demarcates the lands in Sy.Nos.230 and 231 by taking the assistance of the Surveyor from the Office of the Survey and Land Records.

13. I therefore do not find any error of jurisdiction in the order passed by the Court below warranting interference by this Court under Article 227 of the Constitution of India

14. Accordingly the Civil Revision Petition fails and is dismissed.
No costs.

15. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 22-02-2019
Vsv