

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Civil Revision Petition No.2284 of 2019

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the revision petitioner/plaintiff, challenging the docket order, dated 11.09.2019, passed in C.M.A.No.2 of 2017, by the learned Principal District Judge at Khammam. The said docket order, dated 11.09.2019, reads as follows:-

“Advocate Commissioner filed interim report along with a letter issued by counsel for the appellant objecting the conducting the survey by the Deputy Inspector of survey and land record who previously surveyed and submitted a report. Deputy Surveyor present and he is stated that he could not survey on the last date as he was urgently moved from the town. The learned counsel for the appellant seeks hearing of the objections. At this stage, I am not inclined to give any findings on the objections. The objection will be considered after final report is submitted. The Deputy Inspector is directed to fix the fresh date for conducting of survey under the supervision of the advocate commissioner and parties if they are willing. The date of survey is fixed on 24.09.2019. If the parties and their counsels called absent on the date fixed the advocate commissioner and surveyor is directed to proceed with the survey and submit the report without failure since there is direction from the High Court. Call on 30.09.2019.”

2. Heard the learned counsel for the revision petitioner/plaintiff, the learned Government Pleader for Arbitration representing the respondent Nos.1 and 2, Sri Zakir Ali Danish, learned standing counsel for respondents 3 to 5 and perused the record.

3. The learned counsel for the revision petitioner/plaintiff would contend that he has genuine apprehension with regard to the surveyor who is going to assist the Advocate Commissioner, in terms of the order, dated 12.03.2019, passed by this Court in C.R.P.No.559 of 2019. In spite of bringing the same to the notice of the Court below by way of a memo, the Court below declined to consider the same. The survey is required to be conducted by taking assistance of other surveyor/s available in the office of the Assistant Director of Survey, Khammam, and ultimately prayed to set aside the impugned order and allow the Civil Revision Petition as prayed for.

4. On the other hand, learned Government Pleader for Arbitration representing the respondent Nos.1 and 2 and the learned standing counsel for respondents 3 to 5 would contend that as per the order, dated 12.03.2019, passed by this Court in C.R.P.No.559 of 2019, survey is required to be conducted by the Advocate Commissioner with the assistance of survey officials attached to the office of Assistant Director of Survey, Khammam, expeditiously, and it should be completed within four (4) weeks. It is also brought to the notice of this Court that as per the directions of this Court in C.R.P.No.559 of 2019, the survey was completed and report was filed and ultimately prayed to dismiss the Civil Revision Petition.

5. Though the learned counsel for the revision petitioner/plaintiff wanted the survey to be conducted by the advocate commissioner with the assistance of different surveyor, he did

not unfurl the genuine reasons. The apprehension of the revision petitioner is based on imagination. There is specific direction by this Court in C.R.P.No.559 of 2019 to the advocate commissioner to conduct survey with the help of survey officials attached to the office of the Assistant Director of Survey, Khammam. By virtue of the aforesaid orders of this Court, the survey was conducted. The Court below is justified in passing the impugned docket order. No perversity is found in the impugned docket order. The Civil Revision Petition is devoid of merit and is liable to be dismissed.

6. In the result, the Civil Revision Petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Civil Revision Petition, shall stand closed.

02nd December, 2019
vvr

Dr. SHAMEEM AKTHER, J