

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION Nos.2806 AND 2807 OF 2019

COMMON ORDER:

These two Civil Revision Petitions arise out of the same Suit between the same parties and hence, they are being disposed of by this common order.

2. These Civil Revision Petitions, under Article 227 of the Constitution of India, are filed by the revision petitioner/plaintiff aggrieved by the orders, dated 21.10.2019 and 24.10.2019, passed in I.A.Nos.295 and 294 of 2019, respectively, in I.A.No.163 of 2014 in O.S.No.48 of 2007 by the Senior Civil Judge, Mahabubabad, wherein the Court below has dismissed I.A.No.295 of 2019, which was filed to reopen I.A.No.163 of 2014, and closed I.A.No.194 of 2019, which was filed to appoint another Advocate Commissioner to survey the subject land and adjacent lands.

3. Heard learned counsel for the revision petitioner/plaintiff and learned counsel for respondent Nos.1, 3 and 4/defendant Nos.1, 3 and 4, and perused the record.

4. Learned counsel for the revision petitioner/plaintiff would submit that the Advocate Commissioner has not carried out the survey as ordered in the warrant. Further, on Eastern side, boundary was not fixed. The report filed by the Advocate Commissioner is liable to be set aside. The Court below, in the circumstances, ought to have appointed another Advocate

Commissioner to survey the subject land, which is necessary for just adjudication of the subject matter of the Suit and ultimately, prayed to set aside the impugned orders and allow the Civil Revision Petitions, as prayed for.

5. On the other hand, learned counsel for respondent Nos.1, 3 and 4 would submit that the Advocate Commissioner and Survey Officials have visited the subject land almost 11 times and above. Survey was carried out as per the directions, after taking Work Memos from both the sides. The revision petitioner/plaintiff has filed objections as well as additional objections to the Advocate Commissioner's report, but did not co-operate with the Court below to decide on the objections. Therefore, I.A.No.163 of 2014 was closed. However, the objections are not yet determined therein and ultimately, prayed to dismiss the Civil Revision Petitions.

6. As seen from the material placed on record, the Advocate Commissioner has carried out the survey, as ordered in the warrant, after due notice to both the parties and after taking Work Memos from both the sides, and filed a report. Admittedly, the said report is not yet set aside. Furthermore, no request is made to set aside the said report. Only objections were filed to the said report. Survey was carried out to demarcate the land in Survey No.14 and the adjoining land in Survey No.16. Whether to accept the Advocate Commissioner's report or not is yet to be determined. Furthermore, the application to appoint another

Advocate Commissioner is belatedly filed, even without getting the first Advocate Commissioner's report set aside. All contentions raised herein were dealt with and answered by the Court below. There is no perversity in the impugned orders. Furthermore, there is nothing to take a different view. The Civil Revision Petitions are devoid of merit.

7. Accordingly, the Civil Revision Petitions are dismissed. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in these Civil Revision Petitions shall stand closed.

December 05, 2019.
MD

Dr. SHAMEEM AKTHER, J

