

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.2850 OF 2019

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioners/plaintiffs 2 to 4 aggrieved by the order, dated 11.11.2019, passed in I.A.No.1566 of 2019 in O.S.No.133 of 2012, by the Principal Junior Civil Judge, Medchal, Ranga Reddy District, whereby the application filed by the revision petitioners/plaintiffs 2 to 4, under Order XXVI Rule 9 read with Section 151 of CPC to appoint an Advocate-Commissioner for fixation of boundaries of the land covered by Survey Nos.461, 466, 467 and 468 situated at Dabilpur Village and also to find out whether the lands in Survey Nos.461 and 467 are adjoining to each other or not by taking the assistance of the Mandal Surveyor, was dismissed.

2. Heard learned counsel for the revision petitioners/plaintiffs 2 to 4 and perused the record. In spite of service of notices on the respondents 1 to 4/defendants 2 to 5, there is no representation on their behalf.

4. Learned counsel for the petitioners/plaintiffs 2 to 4 would contend that the impugned order is contrary to law and facts of the case. He would further contend that since an issue has been raised that Survey Nos.461 and 467 are adjacent to each other, the revision petitioners/plaintiffs 2 to 4 are compelled to file the subject Interlocutory Application, though the subject suit is coming up for arguments. The Court below ought to have

allowed the subject Interlocutory Application and ultimately prayed to set aside the impugned order and allow the subject Interlocutory Application, as prayed for.

5. A perusal of the impugned order shows that the Court below has examined the matter in detail and observed that the suit is of the year 2012 and that the revision petitioners/plaintiff Nos.2 to 4 filed the subject Interlocutory Application for collection of evidence and that in a suit for injunction simplicitor, an Advocate-Commissioner will be appointed only for the limited purpose of noting down the physical features of the subject property, but in the subject interlocutory application, the revision petitioners/plaintiffs 2 to 4 are seeking to appoint an Advocate-Commissioner to find out whether Survey Nos.461 and 467 are adjacent to each other or not and further the subject interlocutory application was filed belatedly to fill up the lacunas and accordingly, dismissed the subject interlocutory application.

6. In the facts and circumstances of the case, the revision petitioners/plaintiffs 2 to 4 ought to have filed the subject Interlocutory Application immediately after filing of the written statement in the suit. The subject Interlocutory Application is filed simply stating that the respondents/defendants 2 to 5 are claiming the land in Survey No.467 admeasuring Ac.0.25 guntas and it is adjacent to the land in Survey No.461. If the revision petitioners/plaintiff Nos.2 to 4 are disputing the said contention, they ought to have filed the subject Interlocutory Application within a reasonable time, but not at the fag end of the suit.

Moreover, the Court below had passed the impugned order, assigning cogent reasons. There is no legal infirmity in the order under challenge. The Civil Revision Petition is devoid of merit and is liable to be dismissed.

7. Accordingly, 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.

Dr. SHAMEEM AKTHER, J

Dt:24.12.2019

GJ

