

HIGH COURT OF ANDHRA PRADESH : AMARAVATI

HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

CIVIL REVISION PETITION No.956 of 2023

Between:

Karri Satya Lalitha Kumari, W/o. Venkata
Ramana, Cultivation, 48 years, D.No.4-110/1,
Ravichettu Veedhi, Gorinta Village, Peddapuram
Mandal, East Godavari District.

... Petitioner/Respondent No.1/Plaintiff

And

Grama Panchayath, Gorinta village, rep.by
Panchayath Secretary P. Mani Kumar, Gorinta
village, at present Doddigunta, Rangampeta
Mandal and 3 others.

... Respondents/Respondents

Counsel for the petitioner : Sri P. Rajesh Babu

Counsel for respondents : --

ORDER

1st Defendant in the suit filed the above revision against
the order dated 06.03.2023 in I.A.No.282 of 2022 in O.S.No.99
of 2016 on the file of the Principal Junior Civil Judge,
Peddapuram, East Godavari District.

2. Plaintiff filed suit O.S.No.99 of 2016 seeking perpetual injunction. The schedule property mentioned in the plaint is an extent of Ac.1.00 cents in survey No.82/4 of Gorinta village within specific boundaries.

3. Plaintiff pleaded in the plaint that the plaintiff purchased the property under registered sale deed dated 20.10.2012 and has been possession and enjoyment of the property. When the Panchayath Secretary, defendant No.1, is interfering with the possession and enjoyment of the plaintiff, the suit was filed seeking perpetual injunction.

4. Written Statement was filed by the 1st defendant. In the written statement, it was contended that Ac.0.05 cents of land situated in survey No.82 towards south of Pantakalva belong to panchayat. In the said extent of the property, the panchayath authorities constructed public latrines about 20 years back and the people in the locality used the said latrines till 2011. In the year 2011, the panchayath authorities made inventory of Government property and prepared inventory list in which it came to know that the vendor of plaintiff occupied Ac.0.05 cents of land belonged to Government. As per the directions

latrines were removed and kept the same as vacant site with foundations compound wall etc.

5. Pending this suit, I.A.No.282 of 2022 was filed by the 1st defendant to appoint an advocate commissioner to note down the physical features of the suit schedule property and to prepare a plan showing all the topo details. In the affidavit filed in support of the petition, it was contended about construction of public latrines and compound wall etc. The plaintiff filed counter and opposed the application. Trial Court, by order dated 06.03.2023, appointed advocate-commissioner. Aggrieved by the same, the above revision petition was filed.

6. Heard the learned counsel for the revision petitioner.

7. Learned counsel for the petitioner would contend that the suit is filed for injunction simplicitor. The plaintiff pleaded title to the suit schedule property by way of registered sale deed. He also contended that the evidence in the suit commenced, and Panchayath Secretary was also examined on behalf of defendants. After the evidence was let in, since defendant is unsuccessful the application is filed to gather particulars and the same is impermissible. He also would submit that the

defendants filing application in a suit filed by the plaintiff for injunction, to collect the evidence is impermissible.

8. The point for consideration is:

Whether the court has exceeded its jurisdiction in appointing an advocate-commissioner to note down the physical features?

9. Suit O.S.No.99 of 2016 is filed seeking perpetual injunction. The suit schedule property is Ac.1.00 cents in survey No.82/4 of Gorinta village within specific boundaries mentioned in the plaint schedule. The plaintiff pleaded title to the suit schedule property by way of registered sale deed. Defendant No.1 by filing written statement contended that the vendor of the plaintiff occupied Ac.0.05 cents situated in survey No.82. In fact, latrines were constructed in the said land, and they were used for some time later they were removed. In the statement it is specifically contended about foundation and compound wall.

10. I.A. was filed to appoint the advocate-commissioner to note down the physical features of the schedule property only. Appointment of advocate-commissioner is to elicit the information required for adjudication of the dispute. The case

on hand, in view of a dispute regarding overlapping of the property i.e., plaintiff is claiming Ac.1.00 cents and defendants is contending Ac.0.05 cents of the property is part of Ac.1.00 cents, noting down of physical features does not amount to collection of evidence. In fact, the trial court appointed an advocate-commissioner only to note down the physical feature of the schedule property.

11. The Trial court on a careful consideration of all these aspects by a reasoned order allowed the application and appointed advocate commissioner. This court does not find any illegality. There are no merits in the revision and the revision is liable to be dismissed.

12. Accordingly, the Civil Revision Petition is dismissed. No order as to costs.

As a sequel, all the pending miscellaneous applications shall stand closed.

SUBBA REDDY SATTI, J

Date : 11.04.2023
SR