

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

CIVIL REVISION PETITION No.3499 of 2011

Date: 30.12.2011

Between:

B.Yedukondala Raju

..... Petitioner

And:

Shava Krishna

.....Respondent

Counsel for the Petitioner: Sri V.Padmanabha Rao

Counsel for the Respondent: Sri J.Prabhakar

The Court made the following:

ORDER:

This Civil Revision Petition arises out of order, dated 18.07.2011, in I.A.No.137 of 2011 in O.S.No.69 of 2009 on the file of the learned II Additional Junior Civil Judge, Khammam.

The petitioner is the defendant in the said suit filed by the respondent for perpetual injunction in respect of open house site admeasuring 266.66 square yards (222.95 square meters), Plot No.11 in Sy.No.294 of Kahanapuram Gram Panchayat, Khammam Urban Mandal, Khammam District. It is the pleaded case of the petitioner that he and his wife have purchased an extent of Ac.3.07 guntas in Sy.No.294 through a registered sale

deed and that, therefore, he wants the physical features of the entire Ac.3-07 guntas of land in Sy.No.294 to be noted by the Advocate-Commissioner. The lower Court, after a detailed hearing of both the parties, dismissed the said I.A. The lower Court observed that the extent of Ac.3.07 guntas shown in the petition schedule is not the suit schedule property and that, in any event, appointment of an Advocate-Commissioner at the instance of the defendant is wholly unnecessary and that, more over, the respondent having filed the suit, the burden lies on him to prove his case and it is not the duty of the petitioner herein to prove in the negative.

In my opinion, the lower Court has not committed any jurisdictional error in dismissing the said I.A. filed by the petitioner. Hence, the Civil Revision Petition is dismissed.

As a sequel to dismissal of the Civil Revision Petition, interim order, dated 27.08.2011, is vacated and C.R.P.M.P.No.5012 of 2011 filed by the petitioner for interim relief is dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

30th December 2011
DR