

THE HON'BLE SRI JUSTICE M.GANGA RAO

CIVIL REVISION PETITION No.749 of 2019

ORDER:

The unsuccessful petitioner/defendant No.2, filed this Revision Petition under the provisions of Article 227 of Constitution of India, being aggrieved by the order dated 01.02.2019 passed in I.A.No.11 of 2019 in O.S.No.385 of 2012 by the III Additional Junior Civil Judge, Kadapa, wherein and whereby petition filed under Order 16 Rule 10 of C.P.C. to summon the Tahsildar, Kadapa and also to give evidence by producing the document mentioned in the petition is dismissed.

The parties to this petition are herein after called as arrayed in the suit for the convenience and better understanding of the issue.

The respondent/plaintiff filed suit for grant of permanent injunction stating that he is in lawful possession and enjoyment of the plaint schedule land by way of purchase under a registered sale deed dated 27.01.2007 from the lawful owner Sri Singareddy Papi Reddy for valuable consideration. Since then, he is in peaceful possession and enjoyment of land and the defendants without any right or title made their attempt to come into the suit land property

on 16.07.2012 made many efforts to disturb the possession of the plaintiff.

After completion of the evidence of plaintiff, the suit is posted for further evidence of defendants, at that stage of proceedings, only to drag on the suit proceedings, defendant No.2 filed I.A.No.11 of 2019.

The trial Court after considering the rival contentions of parties and on perusal of the record held that petitioner had already filed I.A.No.896 of 2014 to summon the Tahsildar, Kadapa to produce the document and also go give evidence in respect of suit schedule property and the said petition was allowed on 09.12.2014. Accordingly, the Tahsildar, Kadapa appeared before the trial Court and he was examined as witness D.W.3 on behalf of the defendants. Once the witness was summoned and examined on his behalf, again he could not be summoned for the same purpose and for the same relief, for which another petition is not maintainable. Accordingly, the trial Court dismissed the I.A.No.11 of 2019.

Heard the learned counsel for the petitioner and on perusal of the record, the contention of the learned counsel for defendant No.2 that the Tahsildar, Kadapa was not examined on his behalf and was examined on behalf of the defendant No.1. Hence, the application is maintainable, defendant No.2 is entitled to examine the Tahsildar, Kadapa again has no merit consideration, instead of cross examine the

D.W.3/Tahsildar, Kadapa when he was deposed before the Court on behalf of defendant No.1. The Tahsildar, Kadapa again could not be summoned for the same purpose. If, petitioner/defendant No.2 so advised to adduce the evidence independently he could approach the Tahsildar, Kadapa for the information under the Provisions of Right to Information Act, 2005 and obtain certified copies of the same and produce before the Court in support of his claim. Hence, this Court found that there is no illegality or arbitrariness in the impugned order which warrants interfere of this Court under the Provisions of Article 227 of Constitution of India. Accordingly, the Civil Revision Petition is dismissed.

Accordingly, the Civil Revision Petition is dismissed. No costs.

Consequently, Miscellaneous Petitions, if any, pending shall stand dismissed.

M.GANGA RAO, J

29.03.2019
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Date:29.03.2019

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