

**IN THE HIGH COURT OF JUDICATURE, ANDHRA
PRADESH AT HYDERABAD**

**PRESENT
THE HON'BLE SRI JUSTICE K.C.BHANU**

C.R.P.NO.2990 OF 2010

Date:17.03.2011

Between:-

B.Janaiah and others

..Petitioners/Petitioners/defendants

And

P.Swapna

.. Respondent/Respondent/plaintiff

ORDER:-

This Civil Revision Petition is directed against the docket order dated 24-06-2010 in I.A.No.1003 of 2010 in O.S.No.3261 of 2007 on the file of I Additional Junior Civil Judge, Ranga Reddy District, where under and whereby, the petition filed by the petitioners/defendants under Order XVI Rule 14 read with Section 151 of the Code of Civil Procedure, 1908 (for short, 'C.P.C.') to summon Sri K.V.Ramanaiah, licensed Surveyor, to depose and mark his calculation report on their behalf as an exhibit, was dismissed on the ground that there was no plea in their written statement as to the calculation of the extent of lay out made out by one Mr.Jagjit Singh and the necessity to take

measurements of all plots, roads etc in the layout, which was approved long back in the year 1979.

2. Heard both sides.

3. No doubt, under Order XVI Rule 14 C.P.C., the Court has discretion to summon any witness but that discretion has to be exercised judiciously. The only ground on which the petition was dismissed was that there was no plea in the written statement filed by the petitioners with regard to the calculation of the extent of site in lay out made by one Jagjit Singh. As a matter of fact, in the written statement, it is clearly stated that the sanctioned lay out in the name of Sardar Jagjit Singh was obtained on 11-01-1979 from the then Gram Panchayat illegally without any permission. It clearly pleaded that the said lay out in the name of Sardar Jagjit Singh is created and false document. Therefore, if the witness is to be summoned, it would not cause any prejudice to the case of the respondents herein. Whether he is entitled to survey the land or not, whether he is a qualified Surveyor or not are matters to be decided while appreciating his evidence. Therefore, the impugned order is liable to be set aside.

4. The Civil Revision Petition is allowed by setting aside the docket order dated 24-06-2010 in I.A.No.1003 of 2010 in O.S.No.3261 of 2007 on the file of I Additional Junior Civil Judge, Ranga Reddy District and the trial Court is directed to fix a date for appearance of Sri K.V.Ramanaiah. On that date, the petitioners/defendants shall produce the witness. For any reason if the petitioners fail to produce the said witness on the date so fixed, the order of the trial Court shall be given effect. There shall be no order as to costs.

JUSTICE K.C.BHANU

17th March, 2011
AMD

THE HON'BLE SRI JUSTICE K.C.BHANU

C.R.P.NO.2990 OF 2010

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AMD