

R.D. No. 30/2009

Vishwanath Vs.. Ram.

Order below Exh. 81

This is an application filled by L.R's. Of J.D. for permanent stay of execution of decree and for issuance of court commissioner for the measurement of Sy.No. 20 New gut no. 65, 66, 67 at Gour by the T.I.L.R. Nilanga.

Perused application supported by affidavit and say of D.H. vide Exh. 83. Heard counsel for both parties at length. I have carefully gone through record. It appears that in view of order below Exh. 76, possession warrant was issued. However it was returned unexecuted due to the obstruction by L.R's. Of J.D. Prior to that court commissioner was appointed for the measurement of the decretal property in view of order below Exh. 39. Accordingly concern department has measured the above land and submitted the report below Exh.48 along with the measurement map. Order below Exh. 39 reveals that only Sy. No. 20/A (Gut No. 68) was directed to be measured and hand over possession of 38 guntas to D.H. The measurement map shows that only 30 R. land is in the possession of J.D. The report of T.I.L.R. is strongly opposed by both the parties and they are seeking the fresh measurement.

Record shows that D.H. already filled Exh. 32 for the dismissal of the execution petition for want of limitation. That was already rejected. That order does not appear to be

challenged by the J.D. Hence the order below Exh. 32 is in existence. However J.D. again raising the same objection before the same court. There fore the objection in respect of limitation is devoid of any substance. However in view of the say of both parties below Exh. 48, it is necessary to redirect the T.I.L.R. Nilanga to measure the entire sy.no. 20 and separate the decreetal property to the extent 2 hector 42 R. of D.H. As L.R's. of J.D. have no objection to the possession of D.H. to the extent of 2 hector 42 R. and they are ready to hand over any portion as alleged by D.H. In view of the above I pass the following order.

: Order :

01. Application is partly allowed.
02. Prayer in respect of stay of execution is rejected.
03. The T.I.L.R. Nilanga is appointed as court commissioner for the measurement of Sy. no. 20. and fix the boundries of the 2 H.42 R. land from the gut no. 68 at the expenses of both the parties.
04. Concern measurer is directed to measure the total sy.no. 20 of Gour Tq. Nilanga and separate the 2 H. 42 R. land from the gut no. 65 and hand over the possession to L.R's. of D.H.
05. L.R's. of D.H. and L.R's. of J.D. shall deposit the necessary fees in the concern office within the period of 30 days from today.
06. Issue letter to concern.

Date : 26/10/2016.

Sd/-
(**M. S. Borale**)
3rd Jt. Civil Judge J.D.
Nilanga.