



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.02.2018

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. (PD) (MD) No.284 of 2018

and

C.M.P. (MD) No.1256 of 2018

A.David : Petitioner/Petitioner/Defendant

vs.

Jebamalai : Respondent/Respondent/Plaintiff

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 08.12.2017 made in I.A.No.481 of 2017 in O.S.No.133 of 2016 on the file of the I Additional District Judge (PCR), Tiruchirapalli.

For Petitioner : Mr.R.Devaraj

ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order passed by the learned first Additional District Judge (PCR), Tiruchirapalli in I.A.No.481 of 2017 in O.S.No.133 of 2016 dated 08.12.2017.

2. The fact of the case is that the respondent herein is the plaintiff in the suit in O.S.No.133 of 2016, filed for partition and other reliefs, against the petitioner herein/defendant, who is none other than his own brother. During the course of the proceedings, the petitioner/defendant has filed the present interlocutory application in I.A.No.481 of 2017, seeking appointment of Advocate Commissioner. After hearing both the sides, the trial Court has dismissed the said interlocutory application, against which, the present civil revision petition came to be filed.

3. It is the contention of the learned Counsel for the petitioner that the petitioner is in absolute possession and enjoyment of the suit property. Moreover, six electricity



connections stands in his name. The physical features would clearly show that he is in exclusive possession and hence, order of appointment of Commissioner is just and necessary to observe the physical features of the suit properties.

WEB COPY 4. Heard the learned Counsel appearing for the petitioner and perused the documents placed on record. Notice to the respondent is dispensed with.

5. A perusal of record would show that there is no dispute with regard to the identity/description of the suit property and therefore, there is no necessity for appointing an Advocate Commissioner to note down the physical features. This Court is of the view that at this point of time, appointment of Advocate Commissioner will not serve any purpose. When there is a way to prove the possession by adducing oral/documentary evidences, i.e., by producing electricity receipts, the petition seeking appointment of Advocate Commissioner is not warranted and the said interlocutory application was rightly dismissed by the trial Judge, which does not warrant any interference from this Court.

6. Therefore, the present civil revision petition is dismissed, as devoid of merits. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

The I Additional District Judge (PCR),
Tiruchirapalli.

+ 1 cc TO Mr.K.Devaraj, Advocate in SR No.48862

C.R.P. (PD) (MD) No.284 of 2018
and
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PK/JC/SAR-1/26.02.2018 : 2P/3C