

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.3859 of 2018

ORDER :

This Civil Revision Petition is filed challenging the order dt.11.06.2018 passed in I.A.No.238 of 2018 in O.S.No.382 of 2013 on the file of the I Additional Junior Civil Judge, Chittoor.

2. The petitioner herein is defendant in the above suit.
3. The respondent filed the above suit for a perpetual injunction restraining the petitioner from interfering with his possession and enjoyment of the plaint schedule property.
4. Pending suit, the petitioner filed I.A.No.238 of 2018 under Order XXVI Rule 9 C.P.C. to appoint an Advocate-Commissioner to note down the existing physical features of the plaint schedule property with the help of a Mandal Surveyor.
5. The said application was opposed by respondent who contended that appointment of an Advocate-Commissioner is not necessary, and it is only filed for collection of evidence.
6. The Court below accepted the said contention and dismissed the above application.
7. Assailing the same, the present Civil Revision Petition is filed.
8. The counsel for petitioner contended that petitioner had raised mango trees, wet crops, etc., in the land and these facts require to be

noted through an Advocate-Commissioner. It is also his contention that the respondent had raised a plea that the land is barren land.

9. As held by the Court below, the main dispute in the suit is with regard to possession of the subject land and the parties are required to prove it by oral and documentary evidence. The petitioner cannot be allowed to collect evidence of his alleged possession through an Advocate-Commissioner.

10. Therefore, I do not see any error of jurisdiction in the order passed by the Court below warranting interference by this Court under Article 227 of the Constitution of India.

11. Accordingly, the Civil Revision Petition fails and it is accordingly dismissed at the stage of admission. No order as to costs.

12. As a sequel, miscellaneous petitions pending if any in this Civil Revision Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 10.08.2018

Ndr/*