

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP (PD) No.895 of 2018 and
CMP No.4872 of 2018

Krishnan @ Ranganathan ...Petitioner

Vs.

P.Siva ... Respondent

Prayer: The Civil Revision petition filed under Article 227 of Constitution of India, against the order and decretal order dated 14.02.2018 made in I.A.No.72 of 2018 in O.S.No.1252 of 2012 on the file of the Court of the Principal District Munsif at Pondicherry.

For Petitioner : Mr.T.Dhanya Kumar

For Respondent : Nil

ORDER

The plaintiff in O.S.No.1252 of 2012 has come up with this Revision, aggrieved by the order of the trial Court made in I.A.No.72 of

2018, dismissing the said application for appointment of an Advocate Commissioner to inspect the suit property.

2. The suit is one for bare injunction. An application was filed for appointment of an Advocate Commissioner in I.A.No.79 of 2013 and the same was allowed, pursuant to which, the Commissioner inspected the suit property and filed an interim report seeking copies of certain documents. Since the documents were not made available, the application was closed.

3. The petitioner filed an application in I.A.No.1412 of 2017 to reopen I.A.No.79 of 2013 which was closed for non production of documents. The said I.A.No.1412 of 2017 came to be dismissed on 20.11.2017. Thereafter, the petitioner has come up with the application in I.A.No.72 of 2018 seeking appointment of a new Advocate Commissioner. As already pointed out, the suit is one for bare injunction and it is for the plaintiff to prove his possession, he cannot seek an aid of Advocate Commissioner to establish his possession of the suit property.

4. This Court as well as the Hon'ble Supreme Court have repeatedly pointed out that appointment of an Advocate Commissioner in a suit for permanent injunction that too regarding possession, should be avoided.

5. In view of the above and the fact that the plaintiff who was favoured with an order of Advocate Commissioner earlier, has not chosen to avail of the opportunity, I do not see any reason to interfere with the order of the trial Court. The Civil Revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

21.07.2020

vum

Index: Yes/No

Speaking order / Non speaking order

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R.SUBRAMANIAN, J.

vum

To:

1. The Principal District Munsif,
Pondicherry.
2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.



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