

**The Hon'ble Sri Justice C.V.Nagarjuna Reddy**

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**Civil Revision Petition No.1584 of 2012**

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**Date: 30-03-2012**

**Between:**

P.Bhupathi Naidu

...**Petitioner**

**And**

P.V.Arumugam Naidu

...**Respondent**

**Counsel for the petitioner: Sri R.Dheeraj Singh**

**Counsel for the respondent: --**

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**The Court made the following:**

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**The Hon'ble Sri Justice C.V.Nagarjuna Reddy**

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**Civil Revision Petition No.1584 of 2012**

-  
**Date: 30-03-2012**

**Order:**

This Civil Revision Petition is filed against Order,  
dated

01-02-2012, in IA.No.114 of 2009 in OS.No.1027 of  
2005, on the file of the Court of the learned I Additional  
Junior Civil Judge, Chittoor.

The petitioner is the defendant in the

abovementioned suit filed by the respondent for permanent injunction. After closure of evidence and the arguments were completed on the respondent's side, the petitioner filed IA.No.114 of 2009 for appointment of an Advocate-Commissioner for noting down the physical features of the suit schedule property. The lower Court has dismissed this application.

A perusal of the order of the lower Court would show that the petitioner has earlier filed two IAs, one for reopening the evidence and another for recalling PW.1 and both the petitions were dismissed. Thereafter, the petitioner filed the present application for appointment of an Advocate-Commissioner.

At the hearing, the learned Counsel for the petitioner stated that even in the suit for permanent injunction, the Court can appoint an Advocate-Commissioner where elucidation of any fact in dispute is necessary for proper adjudication of the case.

While there is no doubt about the above legal proposition, the same requires to be applied on the facts of each case. In his affidavit, the petitioner has stated that there are coconut and other fruit bearing trees on the northern portion of the suit schedule property and also a house is situated therein and that the respondent has suppressed these facts. In my opinion, the above aspects ordinarily fall within the realm of the evidence to be adduced by the party, who pleads such facts. The

petitioner ought to have adduced relevant evidence to substantiate this plea. Even assuming that appointment of an Advocate-Commissioner was needed to report on these facts, he ought to have filed such an application at appropriate time. Such an effort did not appear to have been made by the petitioner. Even his earlier attempt for getting the evidence reopened also failed. It is only after the completion of arguments on the plaintiff's side that the petitioner has come out with this belated application. As such, on the above facts and circumstances of this case, the lower Court is justified in dismissing the petitioner's application. This Court, therefore, does not find any reason to interfere with the order of the lower Court.

The Civil Revision Petition is, accordingly, dismissed.

As a sequel, CRPMP.No.2110 of 2012, filed by the petitioner for interim relief, is disposed of as infructuous.

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**(C.V.Nagarjuna Reddy, J)**

**30<sup>th</sup> March, 2012**  
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