

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.2006 of 2017
& C.M.P.No.9721 of 2017

M.Valarmathi

.. Petitioner

Vs.

1. Ramasamy

2. Kalimuthu

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 03.02.2017, made in I.A.No.964 of 2014 in O.S.No.87 of 2012 on the file of the District Munsif Court, Dharapuram, Tiruppur District.

For Petitioner : Mr.S.Saravanan

ORDER

This Civil Revision Petition has been filed against the fair and decretal order dated 03.02.2017, made in I.A.No.964 of 2014 in O.S.No.87 of 2012 on the file of the District Munsif Court, Dharapuram, Tiruppur District.

2. The petitioner is the plaintiff and respondents are the defendants in O.S.No.87 of 2012. The petitioner filed suit for permanent injunction restraining the respondents from encroaching the petitioner's property by removing the northern side wall and restraining the respondents from interfering with south and north pathway in the eastern side. The respondents filed written statement in the month of March, 2012 and are contesting the suit. The petitioner filed I.A.No.964 of 2014 for appointment of an Advocate Commissioner to measure and note down the physical features of the petition mentioned property with the assistance of Surveyor and to file his report and plan.

3. The respondents filed counter affidavit denying the contention of the petitioner submitted that the petition property is a vacant land and Survey No.706 of 2009 mentioned as eastern boundary of 'A' schedule property belongs to the respondents. The petitioner has not furnished any particulars of survey numbers. Without giving description of the property, Advocate Commissioner cannot measure the property and hence, prayed for dismissal of the application.

4. The learned Judge considering the averments made in the affidavit, counter affidavit and materials available on record, dismissed the application.

5. Against the order of dismissal dated 03.02.2017 made in I.A.No.964 of 2014, the present civil revision petition is filed by the petitioner.

6. Heard the learned counsel for the petitioner and perused the materials available on record.

7. From the materials available on record, it is seen that the petitioner has not furnished particulars of property to be marked like sub-division numbers. The learned Judge held that the petitioner is not entitled to appointment of Advocate Commissioner on the ground that the respondents are disputing the claim of the petitioner. In a suit for permanent injunction, Advocate Commissioner can be appointed, if the facts and circumstances of the case necessitated. But in the present case, appointment of

Advocate Commissioner is not necessary and Judgment reported in **2015 (1) TNCJ 1038 (MAD) (MB)** relied on by the learned counsel for the petitioner is not applicable to the facts of the present case.

8. The learned Judge considering all the materials on record in proper perspective and the judgment of this Court reported in **2015 (1) TNCJ 1038 (MAD) (MB)**, dismissed the application by giving cogent and valid reason.

9. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

30.06.2017

Index : Yes
gsa/kj

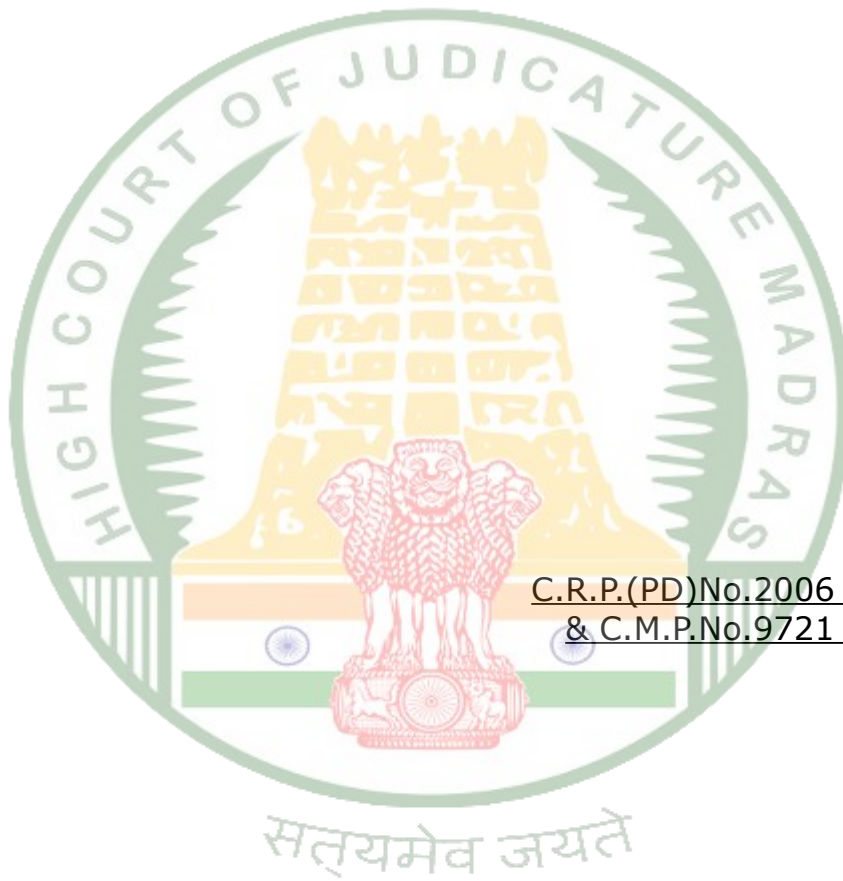
To

The District Munsif Court
Dharapuram
Tiruppur District.

WEB COPY

V.M.VELUMANI, J.

gsa/kj



C.R.P.(PD)No.2006 of 2017
& C.M.P.No.9721 of 2017

WEB COPY

30.06.2017