

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P.(PD) NO.2179 OF 2017

T.Rajagopal

... Petitioner

Vs.

A.M.Agateeswara Swamy Thirukoil
Rep. by its Executive Officer
Villivakkam,
Chennai - 600 049.

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 04.02.2017 passed in I.A.No.4342 of 2013 in O.S.No.1580 of 2013 by the learned I Assistant Judge, City Civil Court, Chennai.

For Petitioner

:

Mr.Christopher Vijay

ORDER

The Civil Revision Petition is filed against the order for appointing an Advocate Commissioner, to verify the physical features of the suit property.

2. The learned counsel for the petitioner / defendant

would submit that appointment of Advocate Commissioner is for the purpose of collecting evidence.

3. The contention raised by the petitioner / defendant is that the appointment of Advocate Commissioner would amount to collection of evidence, which is not sustainable and thus, the order passed by the Trial Court appointing Advocate Commissioner need to be interfered with.

4. Admittedly, the suit is for a permanent injunction restraining the defendant from putting up any kind of construction works over the temple's property. The respondent / plaintiff has sought for appointment of Advocate Commissioner to note down the physical features for the petition mentioned property and to file a report along with a rough sketch, which was allowed. By finding out the physical features, the petitioner / tenant will not be prejudiced.

5. Considering the factual aspects of the matter and admittedly, the petitioner is a tenant under the respondent / plaintiff and the application is only for noting down the physical features, it will

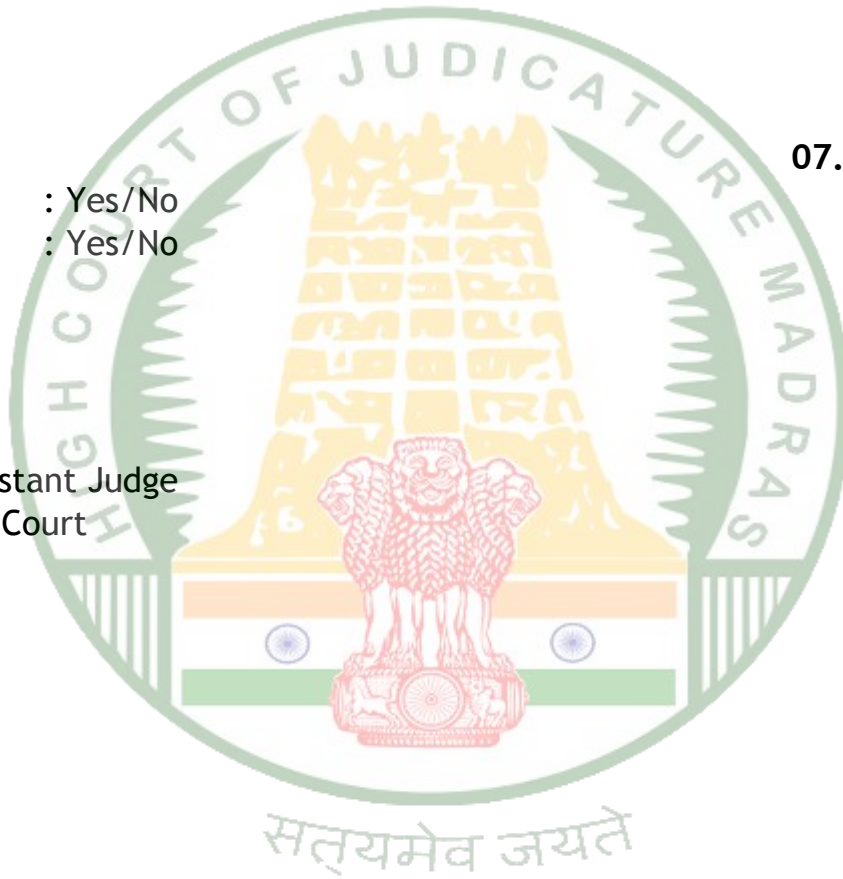
not amount to collection of evidence and therefore, the order of appointing an Advocate Commissioner need not be interfered with. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, CMP No.10467 of 2017 is closed.

07.07.2017

Index : Yes/No
Internet : Yes/No
TK

To

The I Assistant Judge
City Civil Court
Chennai.



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M.GOVINDARAJ, J.

TK



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