

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2017

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (PD) No.2204 of 2017

and

C.M.P No. 10515 of 2017

T.M. Arumugam

.. Petitioner

Vs

1. A.M. Ismath

2. I. Abdul Rahman

3. A. Mohammed Rafi

4. A. Mohammed Farook

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 10.02.2017 made in I.A. No.148 of 2017 in O.S. No.239/2010 on the file of learned II Additional District Munsif, Coimbatore.

For Petitioner

: Mr. R. Bharath Kumar

ORDER

This revision arises against the fair and decreetal order dated 10.02.2017 made in I.A. No.148 of 2017 in O.S. No.239/2010 on the file of learned II Additional District Munsif, Coimbatore.

2. The petitioner filed a suit in O.S. No. 239 of 2010 before the II Additional District Munsif, Coimbatore for mandatory injunction against the respondents, directing them to remove the encroachments in the suit property. After completion of both side arguments, the matter has been reserved for judgment. At this stage, the present application has been filed for appointment of an Advocate Commissioner. Since the said application was dismissed by the court below, this Civil Revision Petition is filed before this Court.

3. The petitioner has stated in the affidavit that the respondents, at the time of arguments, pointed out that the petitioner/ plaintiff has failed to seek for appointment of an Advocate Commissioner to note down the encroached area. Therefore, the present application has been filed by the petitioner/ plaintiff, for appointment of an

Advocate Commissioner. But, the same has been erroneously dismissed by the court below.

4. It is seen that the arguments has been concluded and the case has been reserved for judgment. At the stage of argument of the respondents in the above suit, the present application has been filed by the petitioner which is belated. Further, there is no satisfactory reasons in the affidavit for allowing the application, to re-open the case by filing an application for appointment of an Advocate Commissioner. Prima facie case has not been made out by the petitioner. Hence, the order passed by the court below is confirmed.

5. In fine, the Civil Revision Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No order as to costs.

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Index : Yes/ No

Speaking order/ Non speaking order

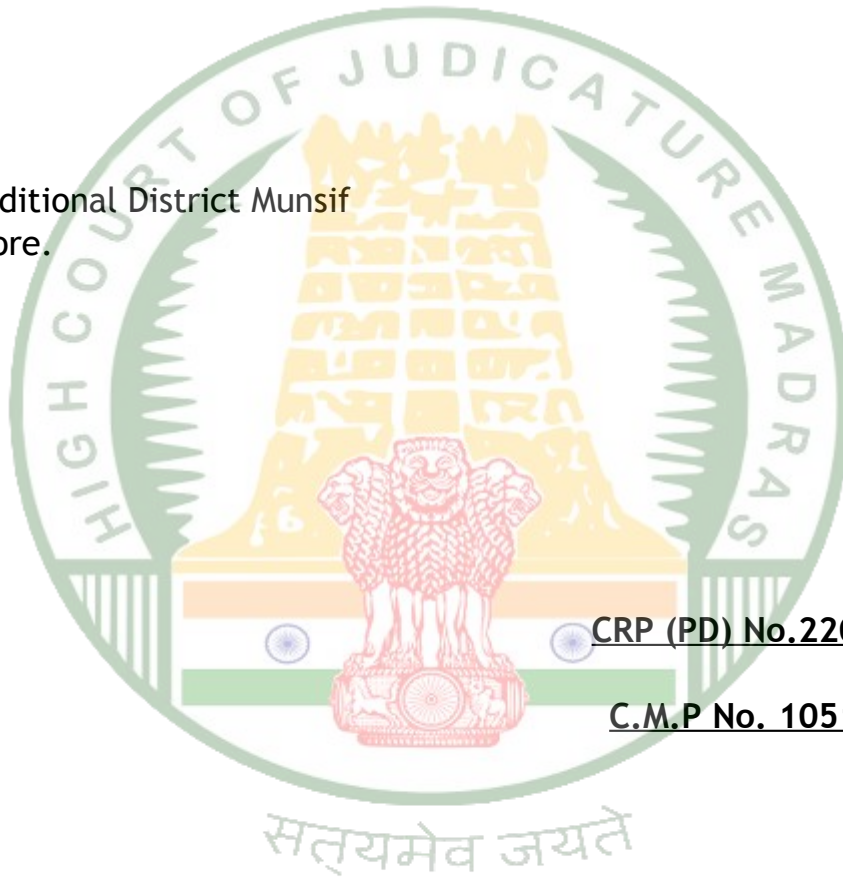
avr

D. KRISHNAKUMAR J.,

avr

To

The II Additional District Munsif
Coimbatore.



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