

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2017

C O R A M

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P (NPD).NO.2273 of 2017 AND
C.M.P.NO.10681 of 2017

1. K.Ravi
2. K.Sundar Raj
3. K.Kalavathi
4. K.Baskaran
5. K.Maheswari

... Petitioners

Vs.

1. M/s Maxworth Home Ltd
Rep by its Authorized Signatory
Mr.Sivakumar
2. M/s Vox Industries Limited
Rep by its Director/Authorized Signatory
Mr.G.Ravanan

3. G.Ravanan

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 17.05.2017 passed in I.A.No.622 of 2017 in A.S.No.9 of 2017 on the file of Principal District Judge, Chengalpet.

For Petitioners : Mr.P.Krishnan

For Respondents : Mr.G.Sundaram

ORDER

The plaintiff has filed a suit for specific performance in O.S.No.44 of 2015, to execute the sale deed pertaining to suit property and for permanent injunction, restraining the defendants from disturbing the plaintiff's peaceful possession and from encumbering the vacant land of the suit property.

2. The defendants have filed an application in I.A.No.221 of 2015 under Order VII Rule 11 for rejection of plaint. The trial Court, by order dated 18.04.2017, has rejected the plaint on the ground that there is no cause of action.

3. Against the order of rejection of plaint, the plaintiff has preferred an appeal in A.S.No.9 of 2017 and the same is pending before the learned Principal District Judge, Chengalpet. During the pendency of the case in I.A.No.622 of 2017, the Appellate Court has appointed the Advocate Commissioner under Order 26 Rule 9 read with Section 151 CPC. Challenging the same, the present Civil Revision Petition is filed.

4. The short point involved in this case is, whether the lower Appellate Court, before deciding the appeal, can appoint an Advocate Commissioner in a non-existing suit.

5. In the considered opinion of this Court, until the maintainability of the suit is decided and plaint filed in the suit is revived, no other orders of interim nature can be passed. Therefore, the orders passed by the learned Principal District Judge, Chengalpet, in I.A.No.622 of 2017 is set aside.

6. The learned Senior counsel appearing for the 1st respondent/plaintiff would submit that the valid right of the 1st respondent/plaintiff gets affected, because of the illegal action of the petitioners/defendants 3 to 7. Therefore, the appeal filed by the 1st respondent/plaintiff shall be disposed of at an earlier point of time.

7. Considering the circumstances of the case and the submissions made by the learned counsel appearing for the respective parties, a direction is issued to the lower Appellate Court to dispose of the appeal within a period of one month from the date of receipt of

copy of this order.

8. With the above direction the Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

28.07.2017

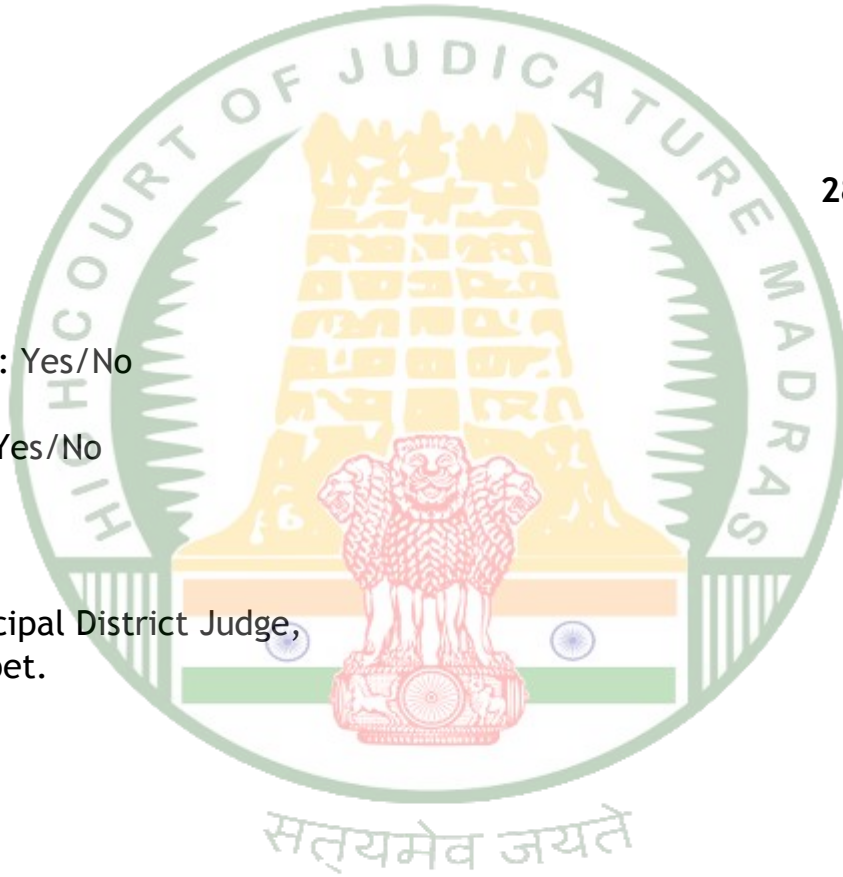
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Internet : Yes/No

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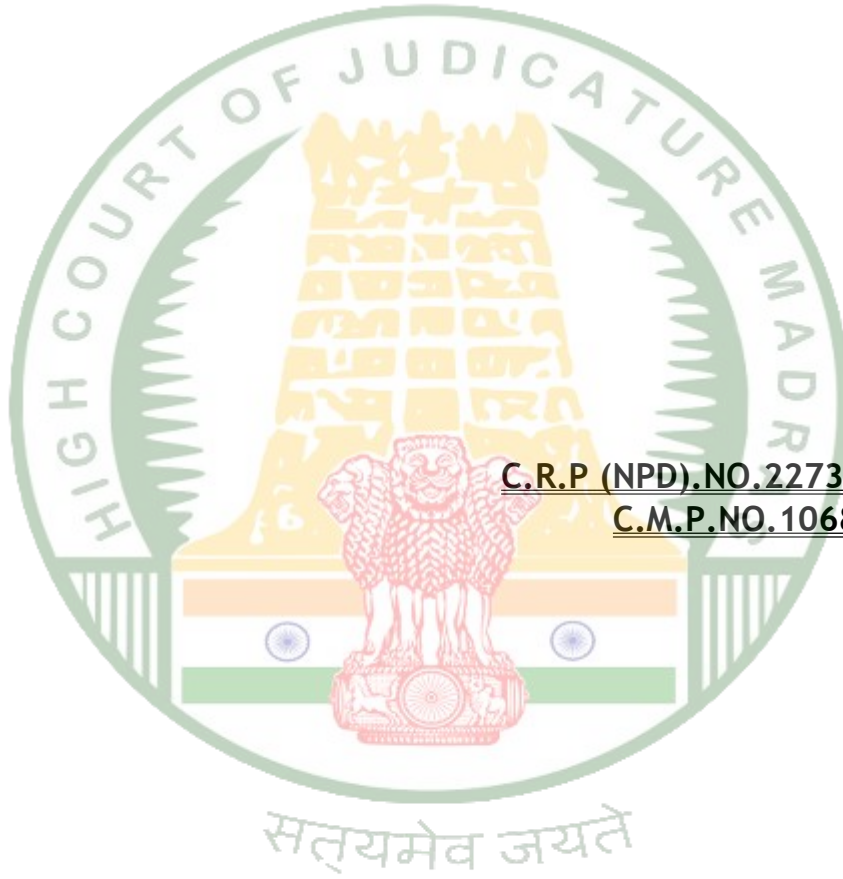
The Principal District Judge,
Chengalpet.



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M.GOVINDARAJ, J.

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