

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2017

C O R A M

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

C.R.P.(PD) NO.2716 OF 2017
AND CMP NO.12911 OF 2017

1.Maadhan
 2.Murugan

... Petitioners

Vs.

1.Maadhan
 2.Jamberi @ Siva
 3.Munusamy

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 21.04.2017 made in I.A.No.838 of 2016 in O.S.No.222 of 2013 on the file of the District Munsif Court, Dharmapuri.

For Petitioners : Mr.R.Prabakar

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ORDER

This Civil Revision Petition is directed against the order dismissing the interlocutory application filed for appointment of Advocate

Commissioner.

2. The revision petitioners are the defendants in the suit. The suit is posted for defendants' side evidence. Since P.W.1 did not accept the possession through sale made on 13.11.2009, the defendants have filed an application for appointment of Advocate Commissioner. Admittedly, the purpose for which the application was filed is only to find out the possession of the property. The Trial Court relying on the judgment reported in 2006 (4) LW 516 has dismissed the application on the ground that to prove possession, the party shall let in acceptable evidence. The Advocate Commissioner cannot be appointed to find out the possession of the suit property. The contention of the plaintiffs that in the event of claiming title, the petitioners / defendants could have filed a suit for declaration or could have denied the title through written statement, but the application was filed with an ulterior motive to protract the proceedings, has some force.

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3. It is well settled that appointment of Advocate Commissioner cannot be made for finding possession of the property. In such circumstances, the finding of the Trial Court is based on sound

reasons and does not warrant any interference.

4. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, connected civil miscellaneous petition is closed.

16.08.2017

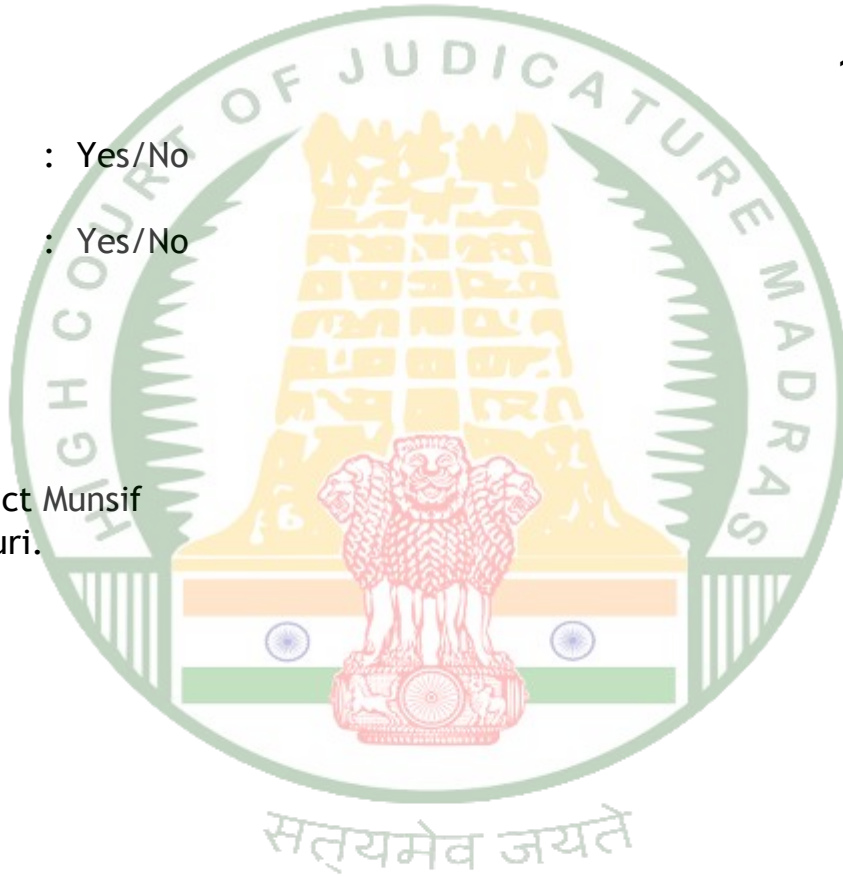
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To

The District Munsif
Dharmapuri.



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M.GOVINDARAJ, J.

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