

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2017

C O R A M

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

C.R.P.(PD) No.3316 of 2017
and C.M.P.No.15479 of 2017

S.Venkatesan

... Petitioner

Vs.

1.Padmanabhan

2.Premraj

3.Pratapraj

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 07.07.2017 passed in I.A.No.2453 of 2017 in O.S.No.7347 of 2012 on the file of the XII Assistant Judge, City Civil Court, Chennai.

For Petitioner : Mr.S.Nagarajan

For Respondents : Mr.G.RM.Palaniappan

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ORDER

The Revision Petitioner has filed this Civil Revision Petition against the dismissal of the application in I.A.No.2453 of 2017 in O.S.No.7347 of 2012 on the file of the XII Assistant Judge, City Civil

Court, Chennai, to appoint an Advocate Commissioner. The petitioner sought for appointment of the Advocate Commissioner to identify, measure and demarcate the suit property with the help of Taluk Surveyor and note down full particulars such as Survey Number, Plot Number thereof, by co-relating the Paimash Number and submit a report before the Court. The trial Court has dismissed the petition with the finding that the petitioner attempts to collect evidence by appointment of the Advocate Commissioner.

2. On perusal of the pleadings, it is seen that the plaintiff does not disclose any deed of title or any legal right on the property. The very nature of the petition filed under Order XXVI, Rule 9 of Civil Procedure Code by itself shows that it is one way of collecting evidence by seeking appointment of an Advocate Commissioner. Since, the matter is pending before the trial Court and it is contested on merits between the parties, this Court is not inclined to go into the merits of the case and give any finding.

4. As far as the petition for appointment of Advocate

Commissioner is concerned, the trial Court has rightly rejected the same. It is for the petitioner to identify and establish the title for the purpose of getting any relief. Therefore, the finding of the trial Court does not suffer from any infirmity.

5. Hence, this Civil Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

14.09.2017

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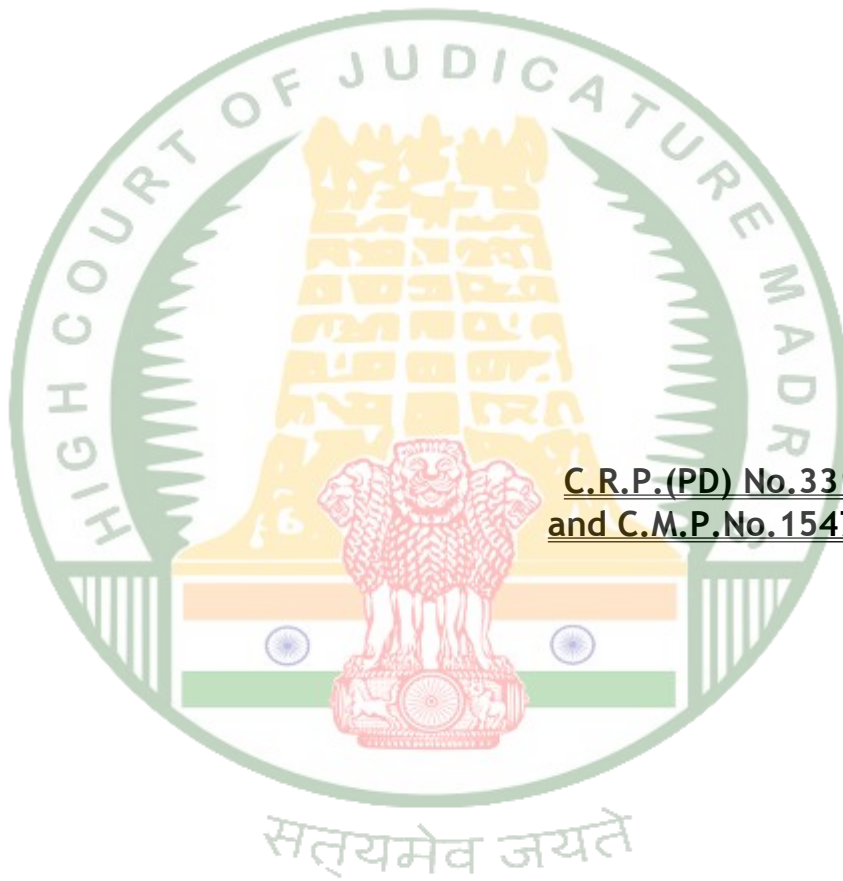
To

The XII Assistant Judge, City Civil Court, Chennai.

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M. GOVINDARAJ, J.

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