

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2017

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

C.R.P.No.3481 of 2017 & C.M.P.No.16181 of 2017

1.Shanmugavadivu
2.Shanthi

... Petitioners

Vs.

1.S.A.Vaiyapuri
2.S.K.Dinakaran
3.S.K.Kribakaran
4.S.K.Karunakaran

... Respondents

Petition filed under Article 227 of the Constitution of India,
to set aside the order dated 01.06.2017 made in I.A.No.1215 of 2016
in O.S.No.304 of 2005 on the file of the District Munsif Court, Sankari.

For Petitioners : Mr.P.Jagadeesan

ORDER

This Civil Revision Petition is directed against the order appointing an Advocate Commissioner to divide the property into two equal shares and to submit a report. According to the petitioners/defendants 5 and 6 in the suit, they are the daughters of the deceased plaintiff S.A.Kuppusamy, in the suit in O.S.No.304 of

2005, on the file of the District Munsif Court, Sankari, who obtained preliminary decree of his $\frac{1}{2}$ share in the suit properties against the first respondent. Thereafter, the petitioners' father, passed away leaving behind the petitioners and respondents 2 to 4, as the legal representatives. The defendant/first respondent has filed an Interlocutory Application in I.A.No.1215 of 2016, for passing a final decree against the petitioners and respondents 2 to 4, who are the legal representatives of the deceased S.A.Kuppusamy. In the aforesaid application, the petitioners/defendants 5 & 6 filed their counter statement claiming that they are entitled to $\frac{1}{10}$ th share each in the suit property and that their $\frac{1}{10}$ th share should also be divided.

2.In such circumstances, as there is already a preliminary decree, the Court below has passed an order by appointing an Advocate Commissioner to divide the property, as per the preliminary decree passed in the suit in O.S.No.304 of 2005.

3.Therefore, it is clear from the said order passed by the Trial Court, that, the Advocate Commissioner has to submit a report on the basis of the preliminary decree by dividing the suit property into two equal shares. In that view of the matter, I find no error or

illegality in the order passed by the Court below. But however, it is open to the petitioners to file appropriate application, if necessary, after the filing of the report by the Advocate Commissioner.

Therefore, this Civil Revision Petition fails and is accordingly, dismissed. No costs.

25.10.2017

Index:Yes/No
abr

Note : Issue order copy by 01.11.2017

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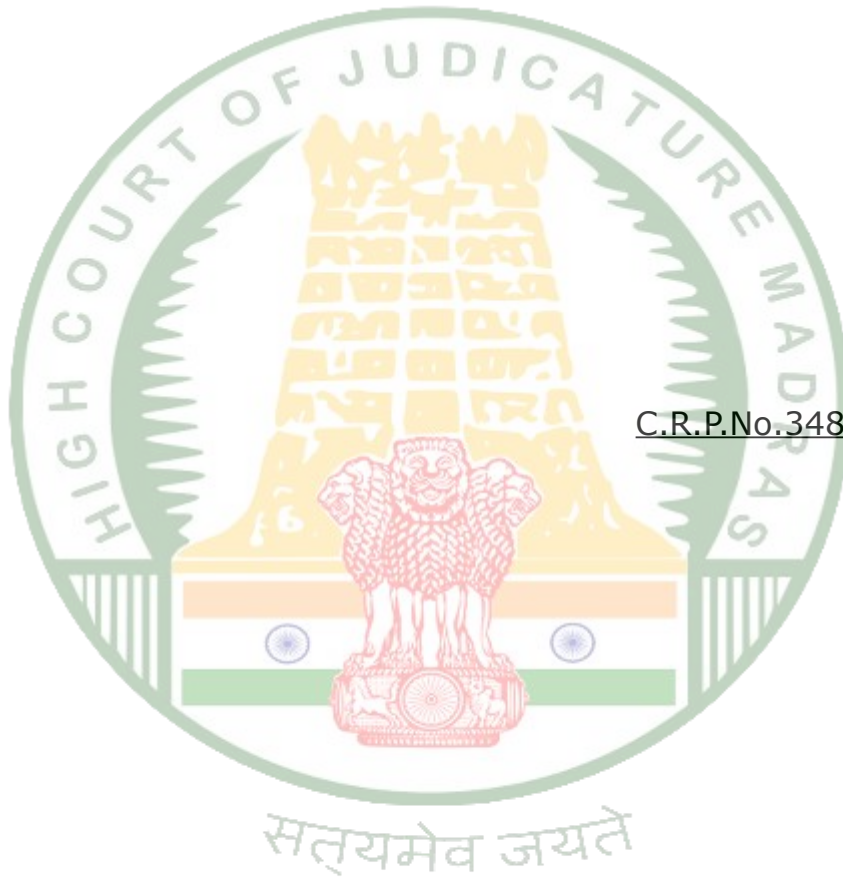
The District Munsif, Sankari.



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D.KRISHNAKUMAR, J.

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