

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.11.2017

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

C.R.P.(PD).No.4071 of 2017
and
C.M.P.No.19107 of 2017

K.Alli

.. Petitioner

Vs.

V.Vijayalakshmi

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the Judgment and Decree dated 01.08.2017 passed in I.A.No.41 of 2016 in O.S.No.06 of 2016 on the file of District Munsif Court, Dharmapuri.

For Petitioner : Mr.V.R.Anna Gandhi

For Respondent : Mr.C.Munusamy

ORDER

According to the learned counsel for the petitioner, the respondent has filed a suit in O.S.No.06 of 2016 before the District Munsif Court, Dharmapuri. In the above suit, she has filed an application in

I.A.No.41 of 2016 under Order XXVI Rule 9 of CPC for appointment of Advocate Commissioner to inspect the suit property and submit his report before the court below. After considering the submission made by the counsel for the parties, the application was allowed. Challenging the aforesaid order, the petitioner herein has filed this revision petition before this Court.

2. The learned counsel for the petitioner would submit that unless and until the respondent/petitioner establishes prima facie case to prove the title of the property, the application for appointment of Advocate Commissioner cannot be entertained. Therefore, the order passed by the court below is liable to be set aside.

3. On perusal of the order passed by the trial court, the court below considering the submission made by the counsel for the parties, come to the conclusion that to determine the issues involved in the suit, appointment of Advocate Commissioner is necessary and if the Advocate Commissioner is appointed, no prejudice would be caused to the respondent/petitioner. Hence, no grounds to entertain the civil revision

petition. Therefore, no warrants to interfere with the order passed by the court below.

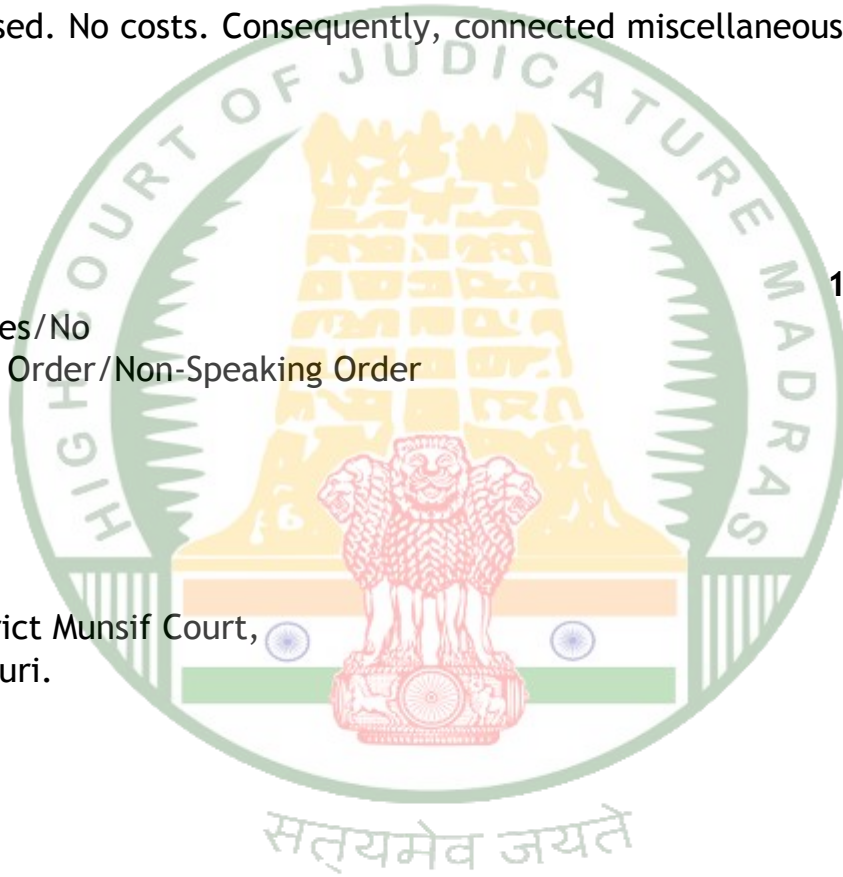
4. Accordingly, this civil revision petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

13.11.2017

Index: Yes/No
Speaking Order/Non-Speaking Order
ssn

To

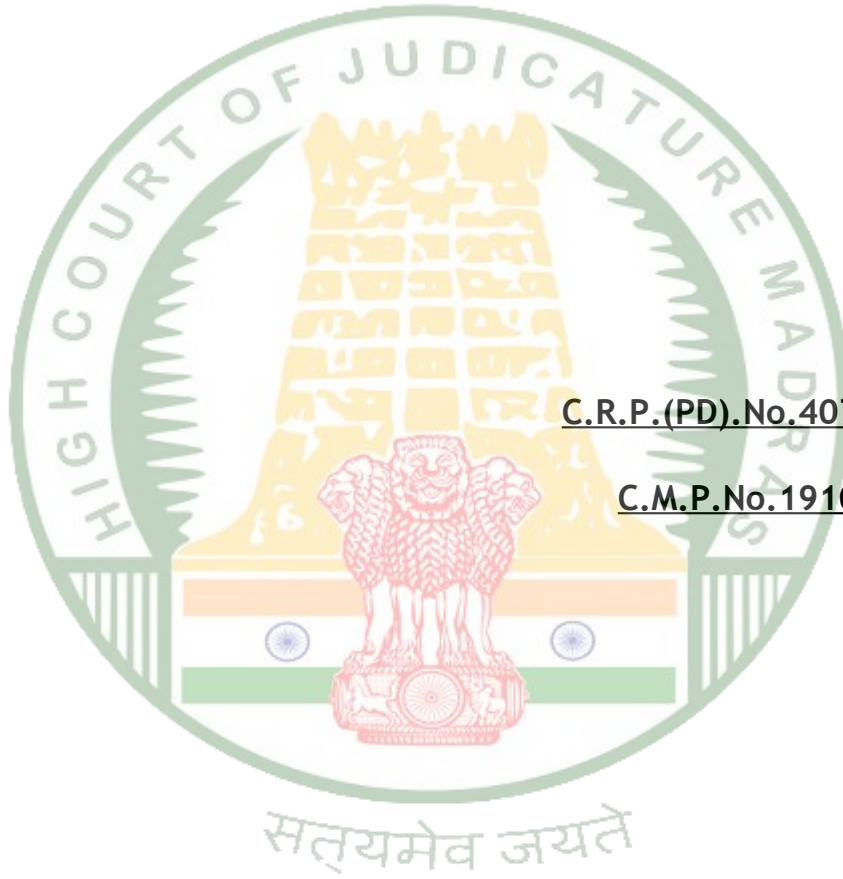
The District Munsif Court,
Dharmapuri.



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D. KRISHNAKUMAR, J.,

ssn



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