

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2017

CORAM

THE HON'BLE MR. JUSTICE **D. KRISHNAKUMAR**

CRP.(PD). No.4466 of 2017
and CMP.No.21084 of 2017

D.K.Devarajan

..Petitioner

Vs.

D.K.Sivagnanam

..Respondent

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India against the Fair and Decretal Order dated 03.10.2017 made in I.A.No.547 of 2017 in O.S.No.118 of 2015 on the file of the District Munsif Court, Dharmapuri.

For petitioner : Mr.C.Munusamy

ORDER

According to the revision petitioner, the revision petitioner has filed a suit in OS.No.118 of 2015 before the District Munsif Court, Dharmapuri for permanent injunction. In the

aforesaid suit, the revision petitioner has also filed an application in IA.No.547 of 2017 for appointment of an Advocate Commissioner to inspect the suit property and note down the physical features of the suit property. In the aforesaid application, the respondent has filed counter affidavit by contending that the present application has been filed only to collect evidence. After, hearing both the parties, the court below dismissed the instant applicant. Hence, the revision petitioner has filed the present Civil Revision Petition before this Court.

2. The learned counsel for the revision petitioner has relied upon the decision of this Court in the case of *B.Amutha Vs. Anandhi Sankara Narayanan* reported in 2016 (3) MWN (Civil) 614, wherein this Court has followed the decision of the Hon'ble Supreme Court in the case of *Saraswathy and another Vs. Viswanathan* reported in 2002 (2) CTC 199, wherein it is held that an Advocate Commissioner can be appointed in a bare injunction suit.

3. The aforesaid decision will not apply to the facts of the present case. Hence, the court below has rightly dismissed the said application by observing that Advocate Commissioner is appointed only to collect evidence of the suit property. Therefore,

there is no warrants to interfere with the orders passed passed by the court below.

4. In the result, the Civil Revision Petition fails and accordingly, the same is dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

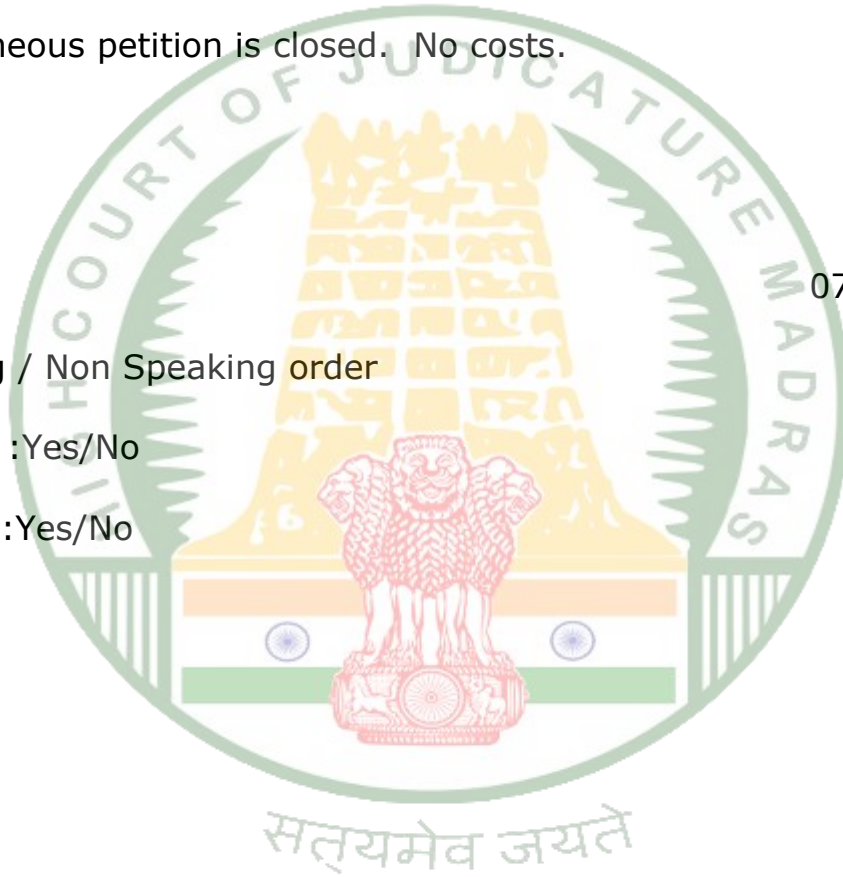
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Speaking / Non Speaking order

Index :Yes/No

Internet :Yes/No

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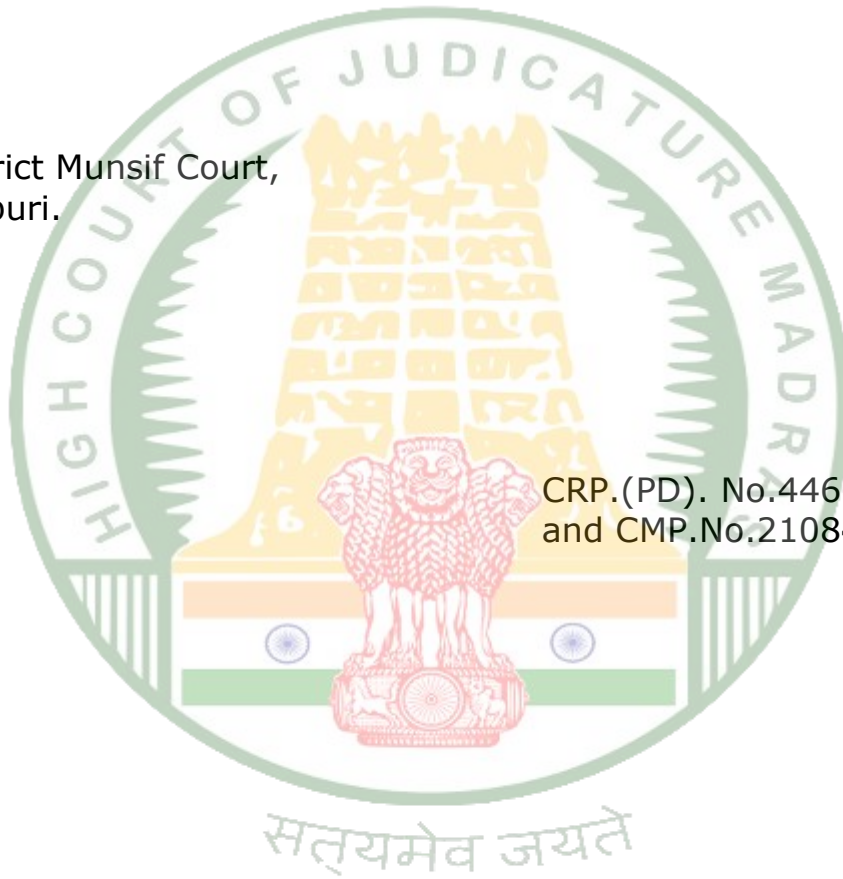
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D.KRISHNAKUMAR.J,

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To

The District Munsif Court,
Dharmapuri.



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