

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.775 of 2017

and

C.M.P.No.3834 of 2017

M. Sahul Hameed ... Petitioner

Vs.

R.Selvamani ... Respondent

**PRAYER:** Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 15.12.2016 made in I.A.No.313 of 2016 in I.A.No.650 of 2014 in O.S.No.341 of 2012 on the file of the District Munsif Court at Pollachi.

For Petitioner : Mr.A.S.Kaizer

For Respondent : Mr.C.Ramkumar  
for Mr.D.R.Arunkumar

**ORDER**

The petitioner is the defendant and respondent is the plaintiff in the suit in O.S.No.341 of 2012. The respondent filed the suit for permanent injunction to prevent the petitioner and their men in any way to cause damage in the suit property. Pending suit, the respondent filed an application in I.A.No.1028 of 2012 for interim injunction. The learned Judge has granted ad-interim exparte injunction.

2. According to the respondent, after ad-interim injunction granted by the Trial Court, the petitioner damaged the suit property. In such circumstances, he has filed an application in I.A.No.650 of 2014 to punish the petitioner.

3. In the said application, the petitioner has filed an application in I.A.No.313 of 2016 for appointment of an Advocate Commissioner to inspect the suit property and to file his report. According to the petitioner, he has not damaged the property and he is maintaining the property properly and he is carrying on glass business, in the suit property.

4. The respondent filed counter and opposed the said application and submitted that already an Advocate Commissioner was appointed in I.A.No.1027 of 2012. He has inspected the property and filed his report stating that there are damages in the suit property. When the petitioner deposed in RCOP.No.11 of 2012, he admitted that he has damaged the property after receipt of a copy of the injunction order. When the Advocate Commissioner inspected the suit property, he admitted that he was present and Advocate Commissioner noted down the damages and he did not file any objection to the Advocate Commissioner's report.

5. The learned Judge considering the averments made in the affidavit and counter affidavit and materials available on record, dismissed the application holding that already an Advocate Commissioner was appointed and filed a report after inspecting the suit property and therefore, there is no reason to appoint another Advocate Commissioner.

6. Against the order of dismissal dated 15.12.2016 made in I.A.No.313 of 2016, in I.A.No.650 of 2014, the present Civil Revision Petition is filed.

7. Heard the learned counsel for the petitioner and the respondent and perused the materials available on record.

8. From the materials on records, it is seen that after the order of injunction, according to the respondent, the petitioner damaged the suit property. As per the order in application in I.A.No.1027 of 2012, earlier the Advocate Commissioner was appointed and he inspected the property and filed his report stating that there are damages in the suit property. The petitioner did not file any objection to the report filed by the Advocate Commissioner. On the other hand, while deposing in RCOP.11 of 2012, he admitted that he damaged the suit property and the fact that

the Advocate Commissioner inspected the suit property and noted down the physical features of the property. In view of the fact that already Advocate Commissioner was appointed and he filed his report after inspection of suit property, the present application for appointment of an Advocate Commissioner is devoid of merits and is not maintainable. In these circumstances, the learned Judge, considering all the materials available on record, has dismissed the application by giving cogent and valid reasons. There is no illegality or irregularity warranting interference by this court with the order of the learned Trial Judge dated 15.12.2016 made in I.A.No.313 of 2016 in I.A.No.650 of 2014 in O.S.No.341 of 2012.

In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

**27.06.2017**

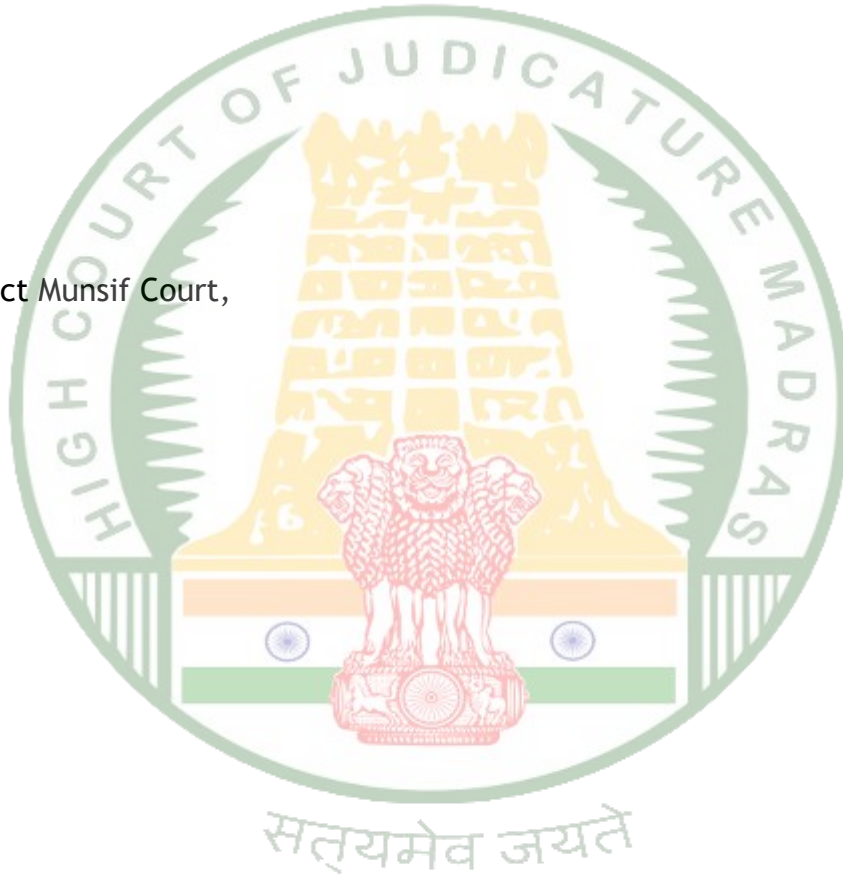
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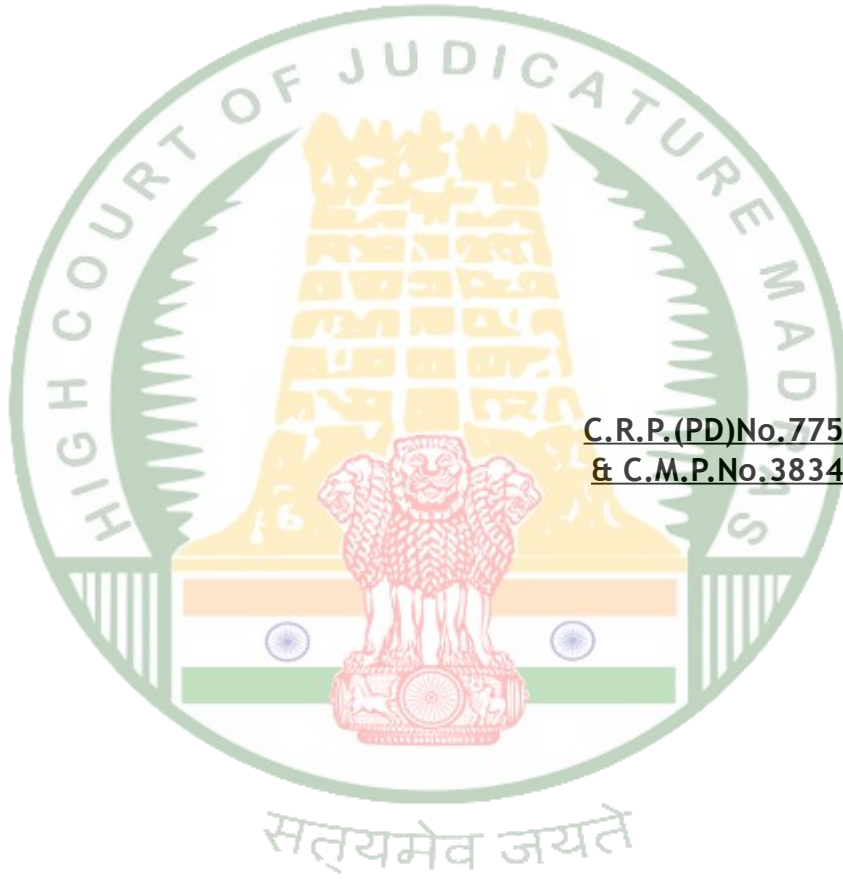
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V.M.VELUMANI., J.

gv/gsa



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