

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.4369 of 2011
& M.P.No.1 of 2011

Thirumoorthy

.. Petitioner

Vs.

The Executive Officer
Office of the Executive Office
Town Panchayat
Veeraganur village post
Gangavalli Taluk

Salem District.

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 02.11.2010 made in I.A.No.274 of 2010 in O.S.No.88 of 2010 on the file of the District Munsif Court, Attur.

For Petitioner : Ms.Zeenath Begum
for Mr.T.Murugamanickam
For Respondent : No appearance

ORDER

This Civil Revision Petition has been filed against the fair and decretal order dated 02.11.2010 made in I.A.No.274 of 2010 in O.S.No.88 of 2010 on the file of the District Munsif Court, Attur.

2. The petitioner is the plaintiff and respondent is the defendant in O.S.No.88 of 2010. The petitioner filed suit for declaration and recovery of possession. The respondent filed written statement on 12.09.2011 and is contesting the suit. Along with the suit, the petitioner filed I.A.No.274 of 2010 for appointment of an Advocate Commissioner to inspect the suit property, fix the four boundaries of the suit property with the help of the qualified surveyor, file his report along with rough plan and specially note down the existing physical features of the suit property.

3. According to the petitioner, the suit property is a patta land and the same is in possession and enjoyment of the petitioner from the year 1971 and before that his father was in possession and enjoyment of the same. The respondent has encroached a portion of the land and is trying to construct a toilet. In such circumstances, the petitioner has filed application for appointment of Advocate

Commissioner to inspect the suit property and fix the boundaries.

4. The respondent filed counter affidavit denying the application and submitted that the disputed land is a Poramboke land and they have completed the construction of toilet for public use.

5. The learned Judge considering the averments made in the affidavit, counter affidavit and materials on record, dismissed the application.

6. Against the order of dismissal dated 02.11.2010 made in I.A.No.274 of 2010, the present civil revision petition is filed by the petitioner.

7. Heard the learned counsel for the petitioner and perused the materials on record. There is no representation on behalf of the respondent.

8. The grievance of the petitioner is that the respondent is

not willing to measure the petitioner's patta land as well as the lands of the Town Panchayat bearing S.No.603/17 for fixing the boundary line in between the properties. The respondent has encroached the patta land and is trying to construct a toilet.

9. A reading of the affidavit and counter affidavit reveals that the respondent is disputing the title of the petitioner and is denying that the land is a patta land, but the disputed land is only a poramboke land. In view of such stand taken by the petitioner, the petitioner has to prove his title to the disputed land and then only he will be entitled to the relief of possession.

10. For the above reason, application for appointment of Advocate Commissioner is devoid of merits and the civil revision petition is liable to be dismissed.

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

19.07.2017

Index : Yes/No
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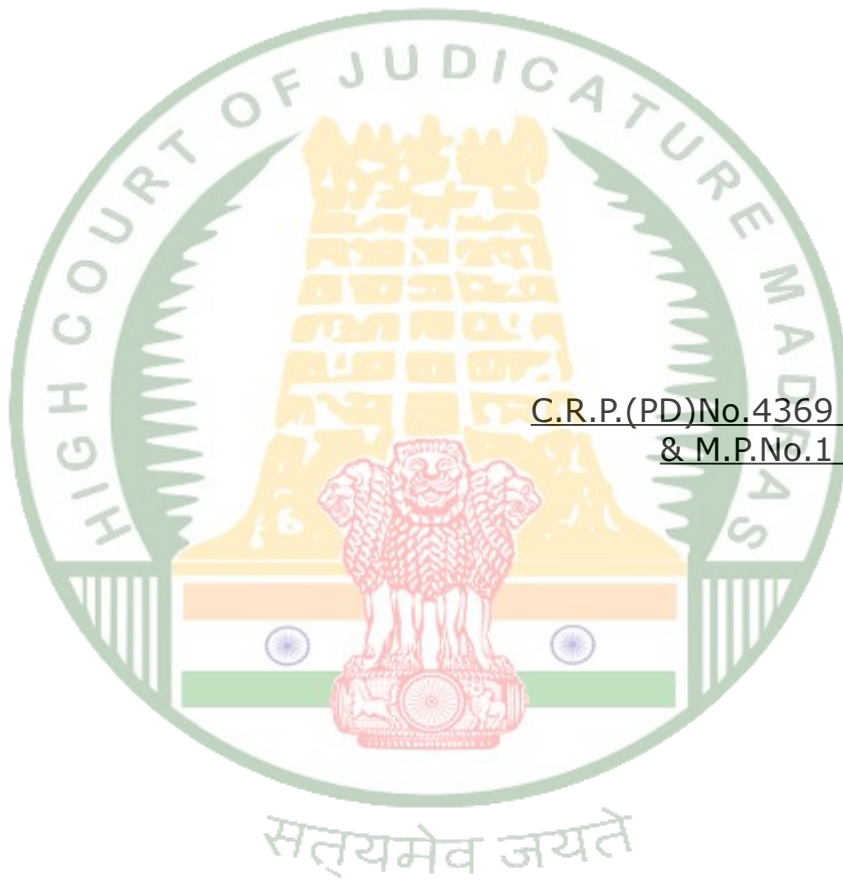
The District Munsif, Attur.



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V.M.VELUMANI, J.

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