

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 15.03.2017

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

**CRP(PD)Nos.1209 and 1210 of 2013
and
M.P.No.1 of 2013**

Arumuga Padayachi .. Petitioner in both CRPs

Vs.

Poiyaddhu Nayakar .. Respondent in both CRPs

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the Fair and Decretal orders in I.A.No.1762 of 2011 dated 15.06.2012 and I.A.No.1433 of 2012 dated 18.01.2013 respectively in O.S.No.500 of 2009 on the file of the Principal District Munsif, Tindivanam.

(In both CRPs)
For Petitioner : Mr.N.Suresh

For Respondent : Mr.T.Dhanasekaran

ORDER

These two civil revision petitions are filed challenging the Fair and Decretal Order made in I.A.Nos.1762 of 2011 & 1433 of 2012 respectively in O.S.No.500 of 2009 on the file of the learned Principal District Munsif, Tindivanam.

2.The revision petitioner as plaintiff has filed the above suit for Declaration of Title and consequential Injunction in respect of schedule property situated in Survey Nos.258/2A and 258/2B at Alagankulam Village, Tindivanam Taluk.

3.It is the case of the revision petitioner that in the suit, previously advocate commissioner was appointed and he has inspected the suit properties and has filed his report.

4.In the said factual backdrop the respondent /defendant has filed the above interlocutory application in I.A.No.1762 of 2011 seeking for a fresh advocate Commission contending that the previous report lack material particulars and stands untrustworthy for want of correct particulars. The said application was allowed by the trial Court ordering for a fresh Commission.

5.The respondent further filed an Interlocutory Application in I.A.No.1433 of 2012 for amendment of the properties particulars in the above application in I.A.No.1762 of 2011 sought for appointment of Advocate Commissioner claiming to substitute the New Survey Numbers. The said application in I.A.No.1762 of 2011 was allowed by the trial Court. Both the orders are under challenge in these Civil

Revision Petitions.

6.I heard Mr.N.Suresh, learned counsel for the petitioner and Mr.T.Dhanasekaran, learned counsel for the respondent in both the Civil Revision Petitions and perused the entire materials available on record.

7.On perusal of the impugned orders as well as the case records, it is seen that the previous inspection and Commission report was made in line with old field measurement book with the assistance of the Taluk Surveyor. The records disclose that the said fact was also indicated by the surveyor that the survey was done only in line with the old field measurement book particulars and Old survey numbers and not in accordance with the FMB, Revised with corresponding new survey numbers.

8.In such circumstances the respondent / defendant has filed the above interlocutory applications to substitute with new survey numbers and seeking for a fresh inspection and corresponding commissioner's report in line with such new survey numbers.

9.It is also the respondent's case that during the previous survey, field was erroneously identified based on the Old Field

Measurement Book.

10. In the said circumstances, the trial Court has ordered for substitution of new survey numbers and a direction was issued to conduct a fresh inspection by allowing the respondent's applications.

11. It is needless to say that only a precise report containing correct particulars will enable the trial Court to come to just and proper decision. Therefore, I do not find any infirmity or irregularity with the impugned orders. Accordingly both the civil revision petitions are hereby dismissed.

12. In the result:

(a) C.R.P.Nos.1209 and 1210 of 2013 are dismissed, by confirming the order passed in I.A.No.1762 of 2011 in O.S.No.500 of 2009, dated 15.06.2012 and in I.A.No.1433 of 2012 in O.S.No.500 of 2009, dated 18.01.2013 on the file of the learned Principal District Munsif, Tindivanam;

(b) the learned Principal District Munsif, Tindivanam is hereby directed to carry out the amendment and the respondent/defendant is permitted to file additional written statement, if any, within a period of one month from the date of receipt of a copy of this order;

(c) the Advocate Commissioner is hereby directed to inspect and file further report as per the order in I.A.No.1762 of 2011 dated 15.06.2012, within a period of 30 days from the date of receipt of a copy of this order and the trial Court is directed to dispose of the suit within period of three months from the date of filing of the report by the Advocate Commissioner. No costs. Consequently, connected miscellaneous petition is closed.

15.03.2017

vs

Note: Issue order copy on 15.02.2019

Internet: Yes

Index: Yes

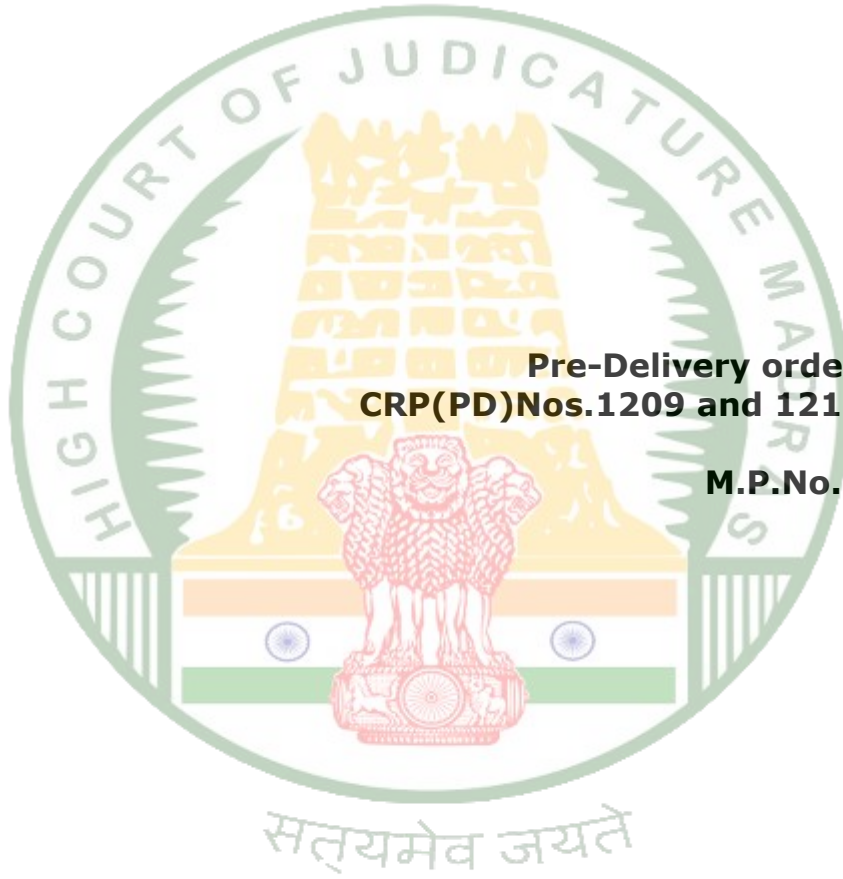
To

The Principal District Munsif,
Tindivanam.

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M.V.MURALIDARAN, J.

VS



**Pre-Delivery order made in
CRP(PD)Nos.1209 and 1210 of 2013
and
M.P.No.1 of 2013**

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