

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2017

CORAM

THE HON'BLE Ms.JUSTICE V.M.VELUMANI

C.R.P.(PD) No.1848 of 2012
and M.P.No.1 of 2012

Ayyakkannu

...

Petitioner

Vs

Rajaram

...

Respondent

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order and decreetal order dated 06.03.2012 passed in I.A.No.983 of 2011 in O.S.No.404 of 2004 on the file of the District Munsif Court, Perambalur by allowing the Civil Revision Petition to appoint an Advocate Commissioner.

For Petitioner : Ms.A.Arulmozhi

For Respondent : No Appearance

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ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal Order 06.03.2012 made in I.A.No.983 of 2011 in O.S.No.404 of 2004, on the file of the District Munsif Court at

Perambalur.

2. The petitioner is the third defendant and the respondent is the plaintiff in O.S.No.404 of 2004 on the file of the District Munsif, Perambalur. The respondent filed the said suit against the petitioner, District Collector, Perambalur and The Tahsildar, Kunnam for permanent injunction restraining the Tahsildar, Kunnam from cancelling the patta standing in the name of plaintiff in respect of the suit property and permanent injunction restraining the petitioner from interfering with the peaceful possession and enjoyment of the suit property. The petitioner filed written statement and is contesting the suit. The petitioner filed I.A.No.983 of 2011 for appointment of Advocate Commissioner to note down the physical features and file his report into Court.

3. According to the petitioner, the respondent is in possession of 11 cents of Government Poramboke Land adjacent to his patta land. The petitioner is in possession of 15 cents of Poramboke land behind the suit property. Patta was issued wrongly to the respondent. When the petitioner took steps to cancel the patta, the respondent has filed the present suit and prayed for appointment of Advocate Commissioner to note down the physical features. The respondent

filed counter and submitted that the petitioner has to prove his possession by filing documents and he cannot seek appointment of Advocate Commissioner to collect the evidence.

4. The learned Judge, considering the averments in the affidavit and counter affidavit and relief sought for by the respondent in the suit, dismissed the application.

5. Against the said order of dismissal dated 06.03.2012 made in I.A.No.983 of 2011 in O.S.No.404 of 2004, the present Civil Revision Petition is filed by the petitioner.

6. Heard the learned counsel appearing for the petitioner and perused the materials available on record. Though notice has been served on the respondent and his name is printed in the cause list, there is no representation either in person or through counsel.

7. From the materials on record, it is seen that the respondent has filed the suit for permanent injunction and it is for the petitioner to prove his possession. There is no dispute with regard to the suit property. In view of the above facts, the learned Judge dismissed the application holding that the petitioner cannot seek for appointment of

Advocate Commissioner to prove his possession. In view of the above circumstances, I do not find any irregularity or illegality in the order impugned in this revision warranting interference by this Court.

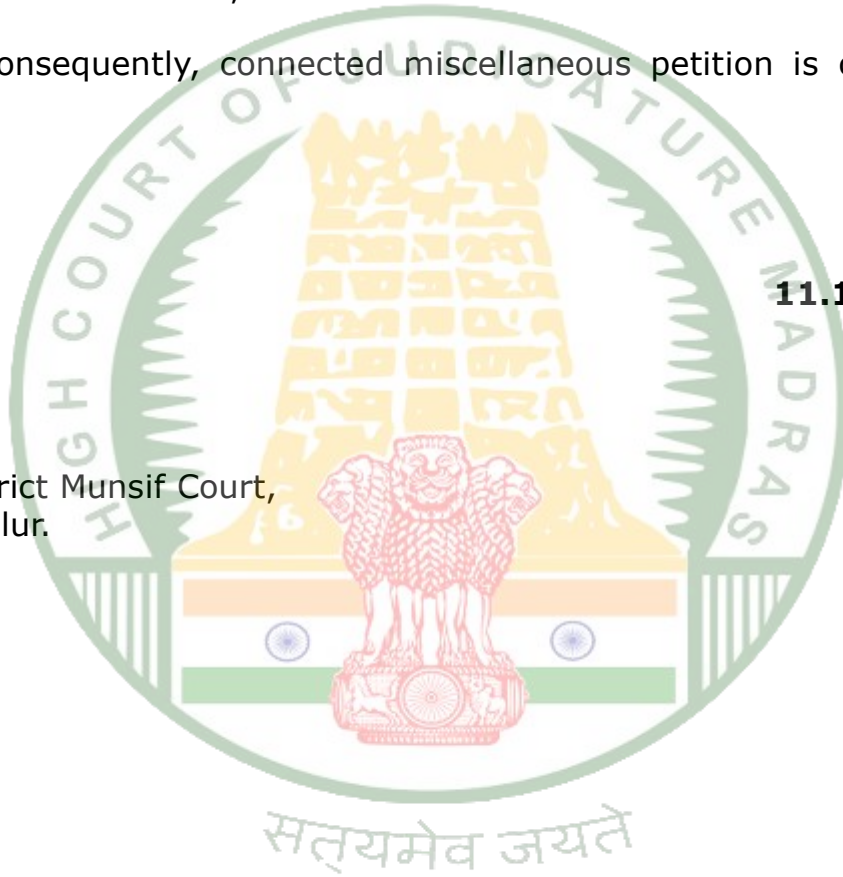
8. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed. No costs.

rna/rgr

To

The District Munsif Court,
Perambalur.

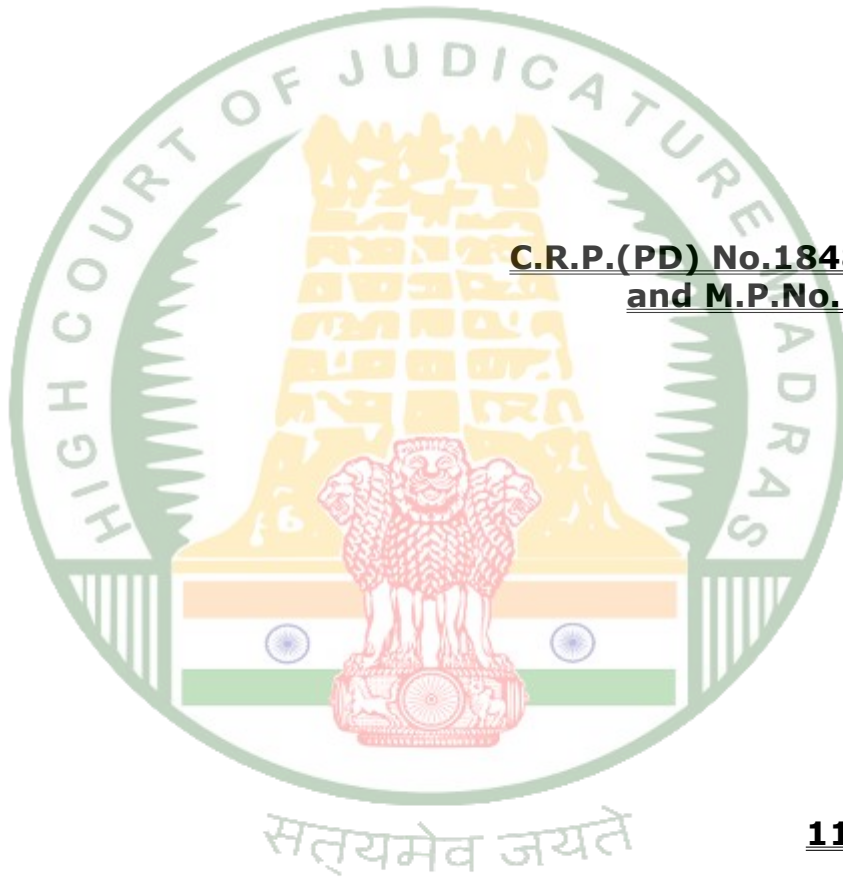
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V.M.VELUMANI, J.

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