

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE **D. KRISHNAKUMAR**

CRP(PD).No.1111 of 2018
and
CMP.No.5815 of 2018

Seethammal

.. Petitioner

Vs

Mani

.. Respondent

PRAYER

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order made in IA.No.307 of 2017 in OS.No.20 of 2014 on the file of the District Munsif Court, Coonoor dated 29.01.2018

For Petitioner

: Mr.R.Krishnaswamy

ORDER

The Civil Revision Petition is taken up for final disposal at the admission stage itself.

2. According to the revision petitioner, the revision petitioner has filed an application IA.No.307 of 2017 in OS.No.20 of 2014 on the file of the District Munsif Court, Coonoor for appointment of Advocate Commissioner to measure the suit property with the help of surveyor for the correct Survey No. of the suit property. The said application was dismissed by the court below. Challenging the aforesaid order, the revision petitioner has filed the present Civil Revision Petition before this Court.

3. The learned counsel for the revision petitioner would submit that the respondent / defendant has relied upon the document marked through DW1 which the survey number for the said property is referred as S.No.368/4, which is different survey number, as mentioned in the suit property. Therefore, the present application has been filed by the revision petitioner. The court below has dismissed the said application by observing that the application is filed only to collect materials to prove the factum of possession of the property. The learned counsel for the revision petitioner would submit that the instant application has been filed only for the purpose of ascertaining the Survey No. as well as the boundaries in the suit property with the help of

surveyor. Hence, the order of the court below is liable to be set aside.

4. Heard the learned counsel for the revision petitioner and perused the materials available on record.

5. On perusal of the records, the revision petitioner has filed the instant application for appointment of Advocate Commissioner to inspect the suit property and submit the report along with the assistance of the surveyor at the stage of the plaintiff's side evidence was concluded. Further, the revision petitioner also filed oral and documentary evidence before the court below to prove the title of the property and also the possession of the suit property. That being so, the revision petitioner can very well agitate his right in the aforesaid suit on the basis of the oral and documentary evidence. Therefore, there is no force in the contention of the revision petitioner to set aside the order passed by the court below. Hence, the order of court below is confirmed. However, it is for the petitioner to prove the case by adducing necessary oral and documentary evidence, to prove the title and possession of the property.

6. The Civil Revision Petition fails and accordingly, the Civil Revision Petition is dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

21.03.2018

Speaking/Non-Speaking order

Index :Yes/No

Internet:Yes/No

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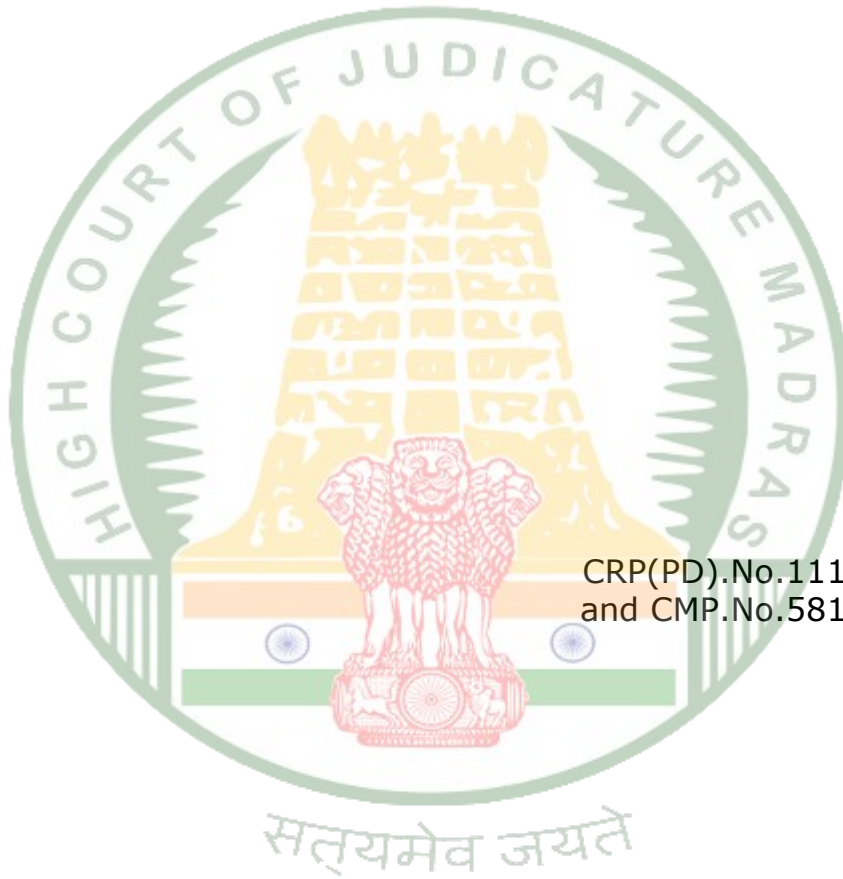
The District Munsif Court,
Coonoor



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D. KRISHNAKUMAR J.,

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