

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20.04.2018

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

**CRP(PD)No.1061 of 2018
and
C.M.P.No.5618 of 2018**

J.Devadoss

.. Petitioner

Vs.

Malarvizhi

.. Respondent

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, against the fair and decreetal order dated 14.12.2017 made in I.A.No.527 of 2017 in O.S.No.269/2008 on the file of II Additional Subordinate Court, Coimbatore.

For Petitioner : Mr.Mukunth
for M/s.Sarvabhauman Associates

For Respondent : M.Velmurugan

ORDER

This revision has been filed against the order of the learned II Additional Subordinate Court, Coimbatore, dated 14.12.2017 , passed in I.A.No.527 of 2017 in O.S.No.269/2008.

2. The revision petitioner filed a suit against the respondent in O.S.No.269 of 2008 on the file of II Additional Subordinate Court, Coimbatore. When the matter is pending, after completion of the trial, the revision petitioner filed an application in I.A.No.527 of 2017 before the trial Court to appoint an Advocate Commissioner to find out whether the construction made by the respondent is either in T.S.No.4327 (Site No.120 as per order of Settlement Tahsildar) or in T.S.No.4330 (Site No.275). Hence, it is pertinent on his side to seek the appointment of an Advocate Commissioner in order to measure the suit property with the assistance of Municipal Corporation Surveyor to verify the boundaries and to fix actual location of constructed building, whether it is in T.S.No.4327 or in T.S.No.4330. The trial Court dismissed such application. There against, the present revision has been filed.

3. Heard the learned counsel for the petitioner, who would submit that the respondent wrongly constructed the building and it is necessary to find out whether it is constructed in T.S.No.4327 or in T.S.No.4330. If an Advocate Commissioner is appointed to find out the same, his report would be very much helpful for the trial Court to arrive at a reasonable conclusion.

4. Admittedly a building was already constructed. The suit has been filed seeking declaration and mandatory injunction to remove illegal construction hence, it is necessary to prove his title through his title deed and parent documents. If the petitioner has any grievance over his possession he can produce revenue records. No Advocate Commissioner shall be appointed to establish possession. In such circumstances, this Court is of the view that to solve dispute like this appointment of an Advocate Commissioner is not necessary and they can very well establish through revenue records. This Court finds no illegality or infirmity in the order passed by the trial Court.

5. Accordingly, the revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

20.04.2018

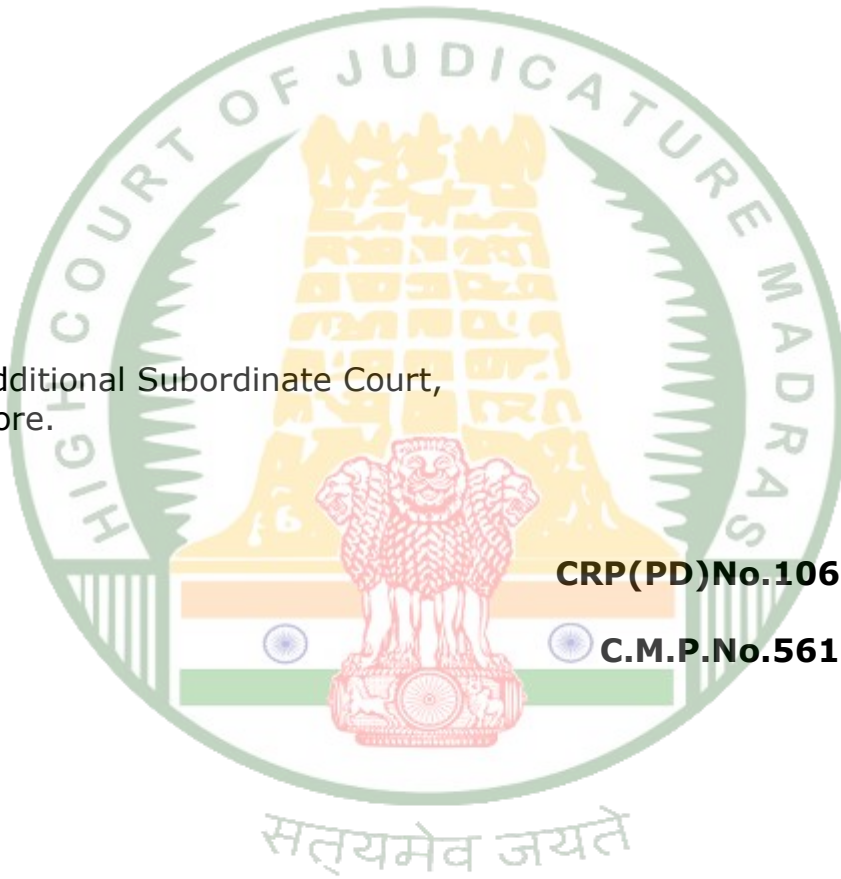
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P.VELMURUGAN, J.
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To

The II Additional Subordinate Court,
Coimbatore.



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