

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.2226 of 2014
& M.P.No.1 of 2014

Kalidass

.. Petitioner

Vs.

- 1.Sathyarani
- 2.Xavery Yvonne
- Nataraja Padayachi (died)
- 3.Muniammal
- Poongavanam (died)
- 4.Anandayee
- 5.Perumal Counder
- 6.Union of India
Rep. By the Secretary,
Pondicherry land reforms, Pondicherry
- Dhanakodi (died)
- 7.Murugesan
- 8.Sivagandhi
- 9.Selvam
- 10.Veerappan
- 11.Poorani (Minor)
- 12.Bomma (Minor)
- 13.Sangeetha (Minor)
- Minors represented by 8th respondent
- 14.Arumugam
- Gopal (died)
- 15.Harikrishnan
- 16.Ramakrishnan
- 17.Lalitha
- 18.Raja (Minor)
- 19.Ezhumalai (Minor)

Minors represented by 17th respondent

20.Visalakshi

21.Rajendran

22.Ganga Durai

23.Dhanasekaran

24.Murugan

.. Respondents

(R2 to R24 not necessary parties.

Hence, notice may be given up)

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 21.02.2014 made in I.A.No.12 of 2014 in O.S.No.102 of 1992 on the file of the Additional Sub Judge, Pondicherry.

For Petitioner : Mr.V.Lakshminarayanan

For R1 : Mr.S.Vijayanand

For R2 to R24 : Given up

ORDER

This Civil Revision Petition is filed against the fair and decretal order dated 21.02.2014 made in I.A.No.12 of 2014 in O.S.No.102 of 1992 on the file of the Additional Sub Judge, Pondicherry.

WEB COPY

2.The petitioner is 7th defendant, 1st respondent is the plaintiff, respondents 2 to 5 are defendants 1, 3, 5, 6 and respondents 6 to 24 are the defendants 8 to 28 in O.S.No.102 of 1992 on the file of the Additional Sub Judge, Pondicherry. The first respondent filed

the said suit to set aside the judgment and decree dated 02.04.1998 passed in O.S.No.149 of 1977 by the I Additional Sub Judge, Pondicherry, to declare that the first respondent is absolute owner of the suit property, for delivery of possession and to pay the mesne profits. The said suit was filed in the year 1992. The petitioner filed written statement and is contesting the suit. Trial commenced. The parties have let in evidence and closed their side.

3.At that stage, the first respondent filed I.A.No.12 of 2014 under Order XXVI Rule 9 of C.P.C stating that it is necessary to appoint an Advocate Commissioner for proper and effective adjudication of the suit, O.S.No.102 of 1992. The petitioner filed counter affidavit and opposed the same. The learned Judge considering the averments in the affidavit and counter affidavit, allowed the application.

4.Against the said order dated 21.02.2014 made in I.A.No.12 of 2014 in O.S.No.102 of 1992, the present Civil Revision Petition is filed by the petitioner.

5.Heard the learned counsel for the petitioner as well as first

respondent and perused the materials available on record.

6.The grievances of the petitioner is that when the suit was in the stage of the arguments, the first respondent filed application for appointment of the Advocate Commissioner without giving any reason. The affidavit filed by the first respondent is vague and speculative. The said contention has considerable force. A reading of the affidavit filed by the first respondent in support of the above application reveals that first respondent has not given any valid reason for appointment of the Advocate Commissioner, except stating that it is necessary to appoint Advocate Commissioner for proper and effective adjudication of the suit, O.S.No.102 of 1992. It is not the case of the first respondent that identity of the suit property is in dispute. Further, according to the petitioner, the suit was initially filed before the learned Inspector of Process-cum-Additional District Munsif in the year 1991 and the same is pending for more than 23 years. The learned Judge failed to consider the above facts and committed an error in appointing the Advocate Commissioner. For the above reason, the impugned order of the learned Judge dated 21.02.2014 made in I.A.No.12 of 2014 in O.S.No.102 of 1992 is set aside.

7.In the result, this Civil Revision Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed. Since the suit is of the year 1992, the learned Judge is directed to dispose of the suit as expeditiously as possible, in any event not later than two months from the date of receipt of a copy of this order.

06.02.2018

Index :: Yes/No

gsa

To

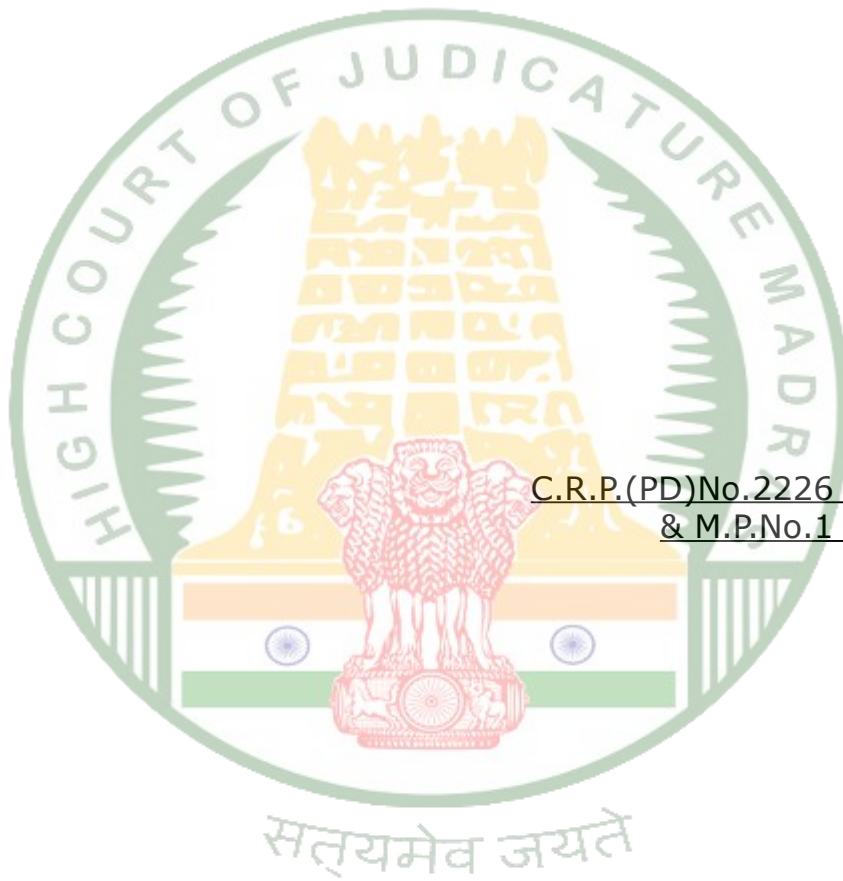
The Additional Sub Judge,
Pondicherry.

सत्यमेव जयते

WEB COPY

V.M.VELUMANI,J.

gsa



C.R.P.(PD)No.2226 of 2014
& M.P.No.1 of 2014

WEB COPY

06.02.2018