

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (PD) No. 2889 of 2017

and

CMP. No.13849 of 2017

1. B. Senthilkumar
2. Babu

.. Petitioners

Vs

1. B. Rathinakumar
2. Paranthaman

.. Respondents

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 21.03.2017 in I.A.No.712 of 2017 in O.S.No.45 of 2017 on the file of the learned District Munsif, Maduranthakam and pass further orders.

For Petitioners : Mr.V. Chandrakanthan

For Respondents : Mr.D. Murthy

ORDER

This Civil Revision Petition is filed to set aside the order dated 21.03.2017 in I.A.No.712 of 2017 in O.S.No.45 of 2017 on the file of the learned District Munsif, Maduranthakam.

2. The petitioners filed a suit in O.S. NO.148 of 2016 for permanent injunction. Subsequently, the respondents filed the suit in O.S. No.45 of 2017 along with I.A. No.712 of 2017 under Order 26 Rule 9 of CPC, praying for appointment of Advocate Commissioner to measure the suit property with the assistance of a Taluk Surveyor and submit his report. According to the petitioners, without any notice to them, an ex-parte order has been passed, appointing an Advocate Commissioner on 21.03.2017. Challenging the said order, the present revision petition is filed before this Court.

3. The learned counsel for the petitioners would submit that the petitioners may be given an opportunity by serving due notice to them, at the time of inspection by the Advocate Commissioner.

4. The aforesaid submission of the petitioners could not be

seriously disputed by the respondents, since an opportunity has to be given to the petitioners at the time of inspection of the suit property, by the Advocate Commissioner.

5. In the light of the above, the order passed by the court below is modified to the extent of directing the learned Advocate Commissioner to serve notice on the petitioners and then inspect the suit property. Thereafter, he shall submit a fresh report before the court below, in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

6. The Civil Revision Petition is partly allowed, with the above direction. Consequently, the connected Miscellaneous Petition is closed. No costs.

सत्यमेव जयते

07.02.2018

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Index: Yes/ No

Speaking Order/Non Speaking Order

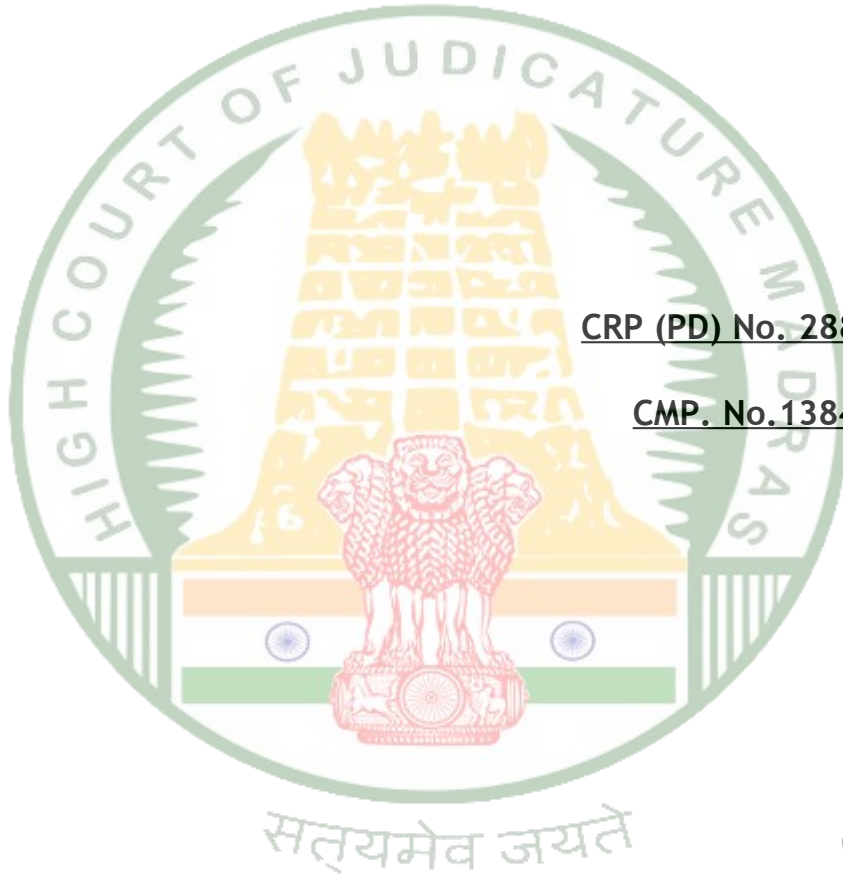
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To

The District Munsif Court,
Maduranthakam.

D. KRISHNAKUMAR J.,

avr



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