

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:28.11.2018

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

C.R.P.(PD) No.1817 of 2016

A.Krishnan

...petitioner

Vs.

1.A.Sivaraj

2.Maran

3.Kannoorammal

4.Akkumari

5.Muniammal

6.Dr.M.Nawab John

..... Respondents

PRAYER Civil Revision Petitions filed under Article 227 of the Constitution of India, praying to set aside the fair order and decreetal order dated 14.07.2015 in I.A.No.243 of 2015 in O.S.No.25 of 2014 on the file of the District Munsif, Palacode, Dharmapuri District.

For Petitioner : Mr.R.Rajarajan

For Respondents :No appearance

ORDER.

1.Heard.

2.Though notice has been served on the respondents and their names are printed in the cause list, none appears on their behalf. As such, this Court of the view that they have no remarks to offer.

3.The suit is for permanent injunction. The application filed in I.A.No.243 of 2015 is for appointment of an advocate commissioner to note down the physical features of the suit property, wherein according to the petitioner, certain mango trees are in existence. The existence of the said trees had been disputed by the respondents in the written statement. The Court below, however rejected the application on the ground that the appointment of Advocate Commissioner is not warranted.

4. When the petitioner's plea is that there is in existence certain mango trees and the same has been denied by the respondent in the written statement, the Commissioner's report would only facilitate the trial Court to arrive at a just and fair conclusion for the purpose of dealing with the issues during the final disposal. As such, the order rejecting the application may not be proper. Since, the respondents have not chosen to

appear before this Court and have also not filed their counter to the application in I.A.No.243 of 2015, it can only be presumed that there is no serious objection with regard to the same. Further, no serious prejudice would be caused to them, if an advocate commissioner is appointed.

5. In the light of the above observations, the order dated 14.07.2015 in I.A.No.243 of 2015 on the file of the learned District Munsif, Palacode, Dharmapuri District is set aside. Consequently, the trial Court is called upon to appoint an Advocate Commissioner on such terms and in accordance with the prayer sought for by the petitioner in his application in I.A.No.243 of 2015.

6. This Civil Revision Petition is ordered accordingly. No costs.

सत्यमेव जयते

28.11.2018

Index: Yes/No

Internet: Yes/No

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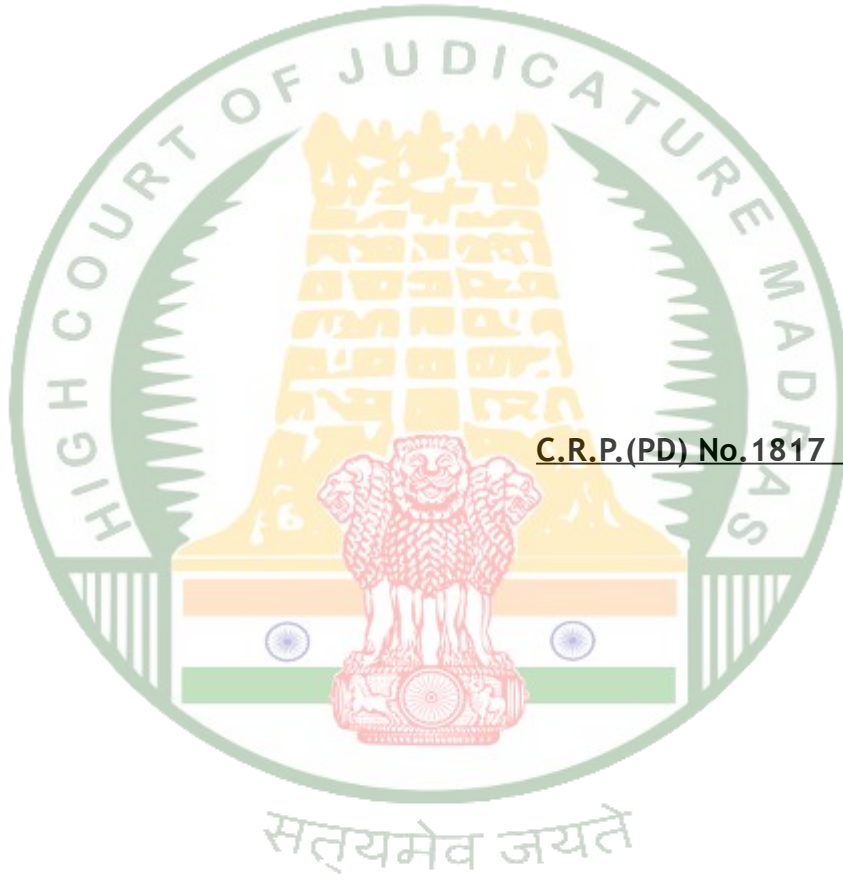
To

The District Munsif,
Palacode,
Dharmapuri District.

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M.S.RAMESH. J.,

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