

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2019

CORAM :

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

C.R.P. (NPD) No.2123 of 2009 &

M.P.No.1 of 2009

1. Mr.M.Krishnamurthy
2. Mr.M.Aswathappa
3. Mr.M.Gopala Krishnan

.. Petitioners

Vs.

1. Mrs.Venkatagiriammal
2. Mr.Kenchappa
3. MrVenkatesappa
4. Mr.Chikka Maramma
5. Mr.Muniyappa
6. Mr.Marappa

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India against the Order and decreetal Order dated 27.04.2009 made in R.E.A.No.90 of 2008 in R.E.P.No.46 of 2001 in O.S.No.388 of 1988 on the file of the District Munsif Court, Hosur.

For petitioners : Mr.J.Nandagopal

For Respondents : Mr.V.Raghavachari – R1

No appearance – R2 to R6

ORDER

This revision has been filed as against the Order passed by the Execution Court in dismissing the application filed for appointment of an Advocate Commissioner.

2. The suit in O.S.No.388 of 2008 originally has been filed for declaration and also for mandatory injunction to remove the encroachment and the suit has been decreed in favour of the plaintiff. When the above decree was put in execution, it appears that this application has been filed to stay all the further proceedings in the suit. Besides he has also taken out an application in E.A.No.90 of 2008 in E.P.No.46 of 2001 stating that the subject matter of the suit is different and he came to know about the same when the advocate visited the property and he is the owner of Door No.1/143 which is situated in S.No.818/16. Therefore, it is his contention that an advocate Commissioner has to be appointed to identify the property. The above application has been opposed by the respondent stating that the property has already been identified several times. The trial Court considering the entire aspect has found that there is no dispute with regard to the identity of the property and the revenue records also tally with the suit property and the Commissioner has already been appointed and Tahsildar and ameen have been examined and came to the conclusion that the property has been properly identified with the assistance of a Taluk Surveyor

and there is also no discrepancy in the revenue records and hence, dismissed the application.

3. I have perused the Order of the trial Court and the same indicate that the property has been properly identified and the Village Administrative Officer has also examined and the Advocate Commissioner has also filed his report and the Surveyor Report is also available. Taking note of the above facts, the trial Court dismissed the application on the ground that there is no requirement for fresh Advocate Commissioner report. When the properties are identified and when the Court ameen went to execute the warrant, a third party, who came as a obstructor cannot compel the Court to do reexercise the proceedings. Hence, I do not find any error or irregularity in the Order of the trial which needs interference.

4. Accordingly, this Civil revision petition is dismissed and the Execution Court is directed to dispose of the Execution Proceedings within a period of two months from the date of receipt of a copy of this Order. Consequently, the connected miscellaneous petition is closed. No cost.

14.03.2019

vrc

To

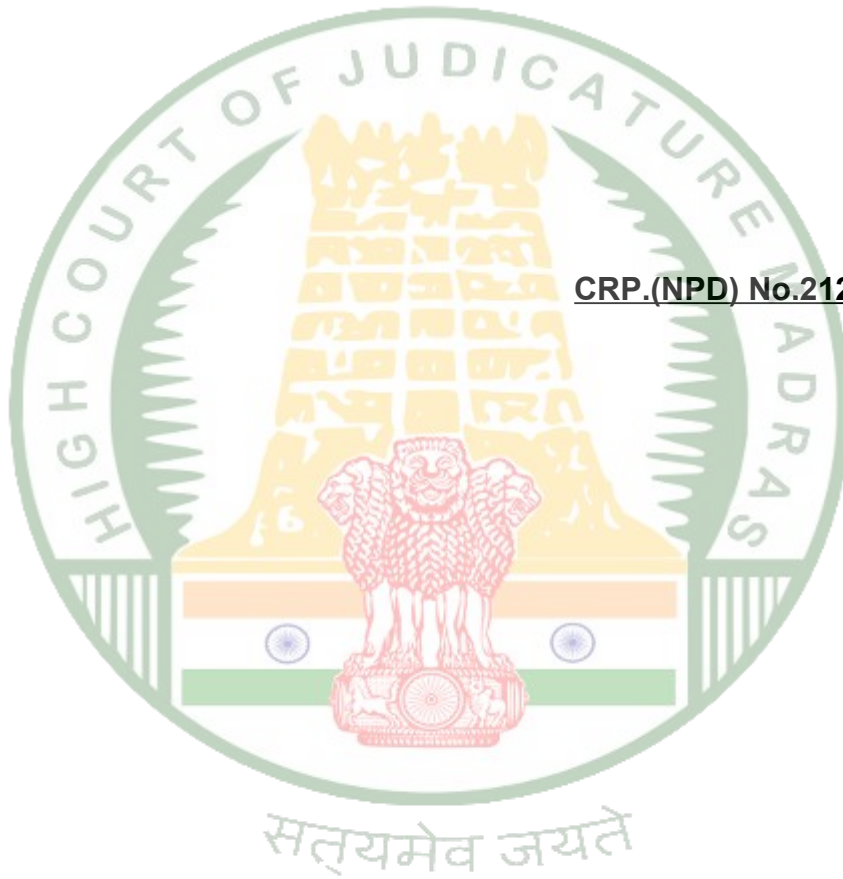
The District Munsif,
Hosur.



WEB COPY

N.SATHISH KUMAR, J.

vrc



CRP.(NPD) No.2123 of 2009

14.03.2019

WEB COPY