

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.02.2019

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(PD).No.408 of 2019

and

C.M.P.No.2761 of 2019

Krishnakumar

...

Petitioner

-VS-

1. Anbalagan

2. Rohini

...

Respondents

PRAYER:

Civil Revision Petition filed under Article 227 of the Constitution of India, against the order and decretal order dated 13.12.2018 made in I.A.No.977 of 2018 in O.S.No.181 of 2012 on the file of the District Munsif Court, Nagapattinam.

For Petitioner : Mr.K. Sasindran

ORDER

The above Civil Revision Petition is filed challenging the dismissal of an application moved by the plaintiff in the suit in

<http://www.judis.nic.in> O.S.No.181 of 2012 on the file of the District Munsif Court,

Nagapattinam, seeking to implead the Commissioner, Corporation of Nagapattinam Municipality, as a party to the proceedings. The suit in O.S.No.181 of 2012 has been filed by the revision petitioner against the 1st and 2nd respondents for a declaration that he is entitled to an easementary right to light and air to his property situated in Survey No.2096 and for a consequential injunction restraining them from cutting off the light and air and other prayer that has been sought for by the revision petitioner is that the defendants have been putting up a construction flush to the wall of the revision petitioner, contrary to the building rules and for a mandatory injunction to demolish the same. Pending the suit, when the matter was posted for arguments, the revision petitioner has come forward with the impugned petition. The only reason for seeking to implead the Commissioner is that he has failed in his duty to demolish the unauthorized construction. The court below has dismissed the said application. Against which, the revision has been filed.

2.Heard Mr.K. Sasindran, learned counsel for petitioner.

3.It is seen that the suit has reached the arguments stage. That apart, the proposed party is neither a proper party nor a necessary party to the pleadings. If in the ultimate event of the plaintiff/revision petitioner succeeding in the suit, they can always execute the decree by filing necessary execution petition.

4.Therefore, there is no necessity to implead the Commissioner. In the result, this Civil Revision Petition is dismissed confirming the order passed in I.A.No.977 of 2018 in O.S.No.181 of 2012 on the file of the District Munsif Court, Nagapattinam. Consequently, connected miscellaneous petition is closed. No costs.

सत्यमेव जयते

05.02.2019

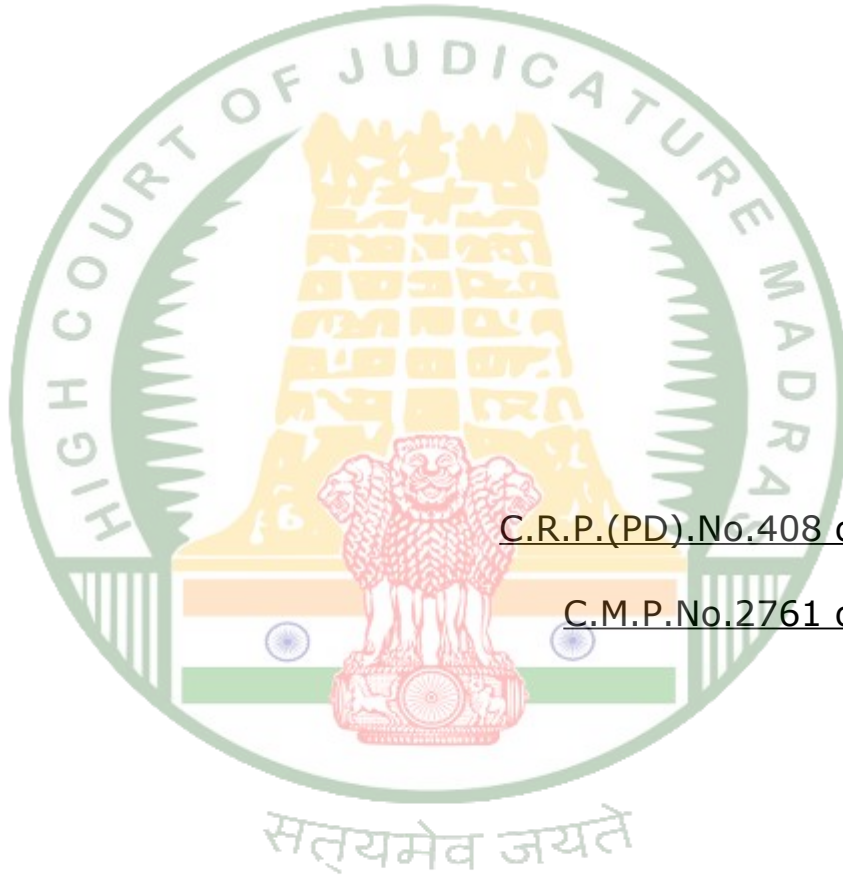
jrs/arb

Index : Yes/No
Internet : Yes / No
Speaking/non-speaking order

To
The District Munsif Court,
Nagapattinam.

P.T.ASHA.J.,

jrs/arb



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