

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAIWAMY

C.R.P.(NPD).No.1401 of 2012
and M.P.No.1 of 2012

Rajkumar

.... Petitioner

Vs.

1.N.Ramasamy

2.Lakshmi Ammal

3.Rukumani Ammal

4.Chinnappa (alias) Tholiammal

5.Muthusamy Naicker

6.Periyasamy

7.Kamalammal

... Respondents

Civil Revision Petition filed under Section 115 of the Civil Procedure Code against the fair and decreetal order dated 04.03.2011 in I.A.No.10 of 2011 in O.S.No.158 of 1989 on the file of the Additional Sub Court, Tiruvannamalai.

For Petitioner : Mr.R.Rajarajan

For Respondents : R1 to R3, R5 to R7 - no appearance

R4 - not ready in notice

ORDER

Challenging the fair and final order passed in I.A.No.10 of 2011 in O.S.No.158 of 1989 on the file of the Additional Sub Court, Tiruvannamalai, the 2nd defendant has filed the above Civil Revision Petition.

2.The plaintiffs filed the suit in O.S.No.158 of 1989 for partition and for other reliefs. The Trial Court passed a preliminary decree on 13.10.1993. Pursuant to the preliminary decree passed by the Trial Court, the plaintiffs filed a final decree application in I.A.No.255 of 1994. In the said final decree application, the Trial Court appointed an Advocate Commissioner to inspect and divide the suit properties as per the preliminary decree. The Advocate Commissioner visited the suit properties and found that some machineries were attached to the “A” Schedule property (i.e) a Rice Mill and therefore, it would be appropriate to appoint an Engineer from the Public Works Department to assess the value of the machineries attached to the “A” Schedule property. Pursuant to the said observation, the plaintiffs filed an application in I.A.No.10 of 2011 seeking for appointment of an Engineer of the PWD to assess the value of the machineries. The defendants filed their counter and opposed the petition. However, the Trial Court, taking into consideration the observations made by the Advocate Commissioner in I.A.No.255 of 1994, appointed an Advocate Commissioner to assess the value of the machineries with the assistance of a qualified PWD Engineer. Challenging this order, the 2nd defendant has filed the Civil Revision Petition.

3. Since the Trial Court has appointed an Advocate Commissioner to assess the value of the property with the assistance of a PWD Engineer based on the earlier report filed by the Advocate Commissioner, the order passed by the Trial Court cannot be found fault.

4. In these circumstances, I am of the view that there is no error or irregularity in the order passed by the Trial Court. The Civil Revision Petition is devoid of merits and the same is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

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

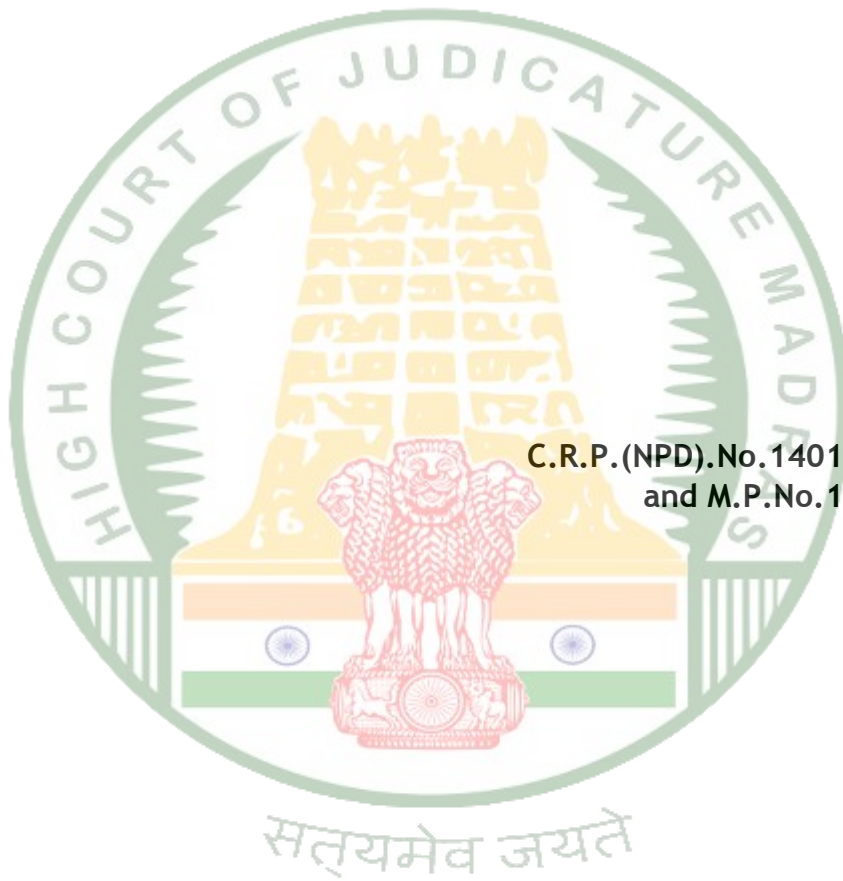
19.07.2019

To

1. The Additional Sub Court, Tiruvannamalai.

M. DURAISWAMY,J.

va



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