

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2019

CORAM :

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

C.R.P(PD)No.3326 of 2013

and

M.P.No.1 of 2013

N.Govindarajan

... Petitioner/Plaintiff

Vs.

1. Krishnaveni
2. Balaraman
3. Subramani

... Respondents/Defendants

PRAYER: Civil Revision Petition filed under Section 227 of the C.P.C., to set aside the orders dated 10.07.2013 passed in I.A.No.581 of 2013 in O.S.No.197 of 2010, on the file of the District Munsif, Tiruttani.

For Petitioner : Mr.G.Mohan

For Respondents : No appearance

ORDER

This Civil Revision Petition has been filed against the Order dated 10.07.2013 passed in I.A.No.581 of 2013 in O.S.No.197 of 2010, on the file of the District Munsif, Tirurrani, against the dismissal of the application filed by the revision petitioner for appointment of Advocate Commissioner.

2. The Suit in O.S.No.197 of 2010, has been originally filed for Permanent Injunction, against the respondents on the ground that the respondents had put up obstruction in the "B" schedule property which is only the path way to the revision petitioner's property. The trial Court to note down the facts and the physical features of the suit schedule property appointed a Senior Advocate as an Advocate Commissioner along with Taluk Surveyor who filed his report and sketch, which is also marked as Ex.B4.

3. Heard, the learned counsel appearing for the revision petitioner and perused the entire records, available on record.

4. The suit in O.S.No.197 of 2010, itself was filed for Permanent Injunction, restraining the respondent from making obstruction in the "B" schedule property which is the pathway leading to the plaintiffs property.

5. This application has been filed by the plaintiff to gather the evidence in respect of the suit, property. No doubt in this case the trial Court had already appointed an Advocate Commissioner and he has filed a report, and the above report is also marked as Ex.B4 in the

suit. At this stage, the second application has been filed.

6. It is to be noted that without seeking scrapping the report of Advocate Commissioner, the second Advocate Commissioner cannot be appointed. As rightly held by the trial Court, the Advocate Commissioner cannot be appointed to gather evidence to prove the case of the plaintiff filed for bare injunction. This Court does not find any illegality or infirmity in the order passed by the trial Court.

7. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

18.02.2019

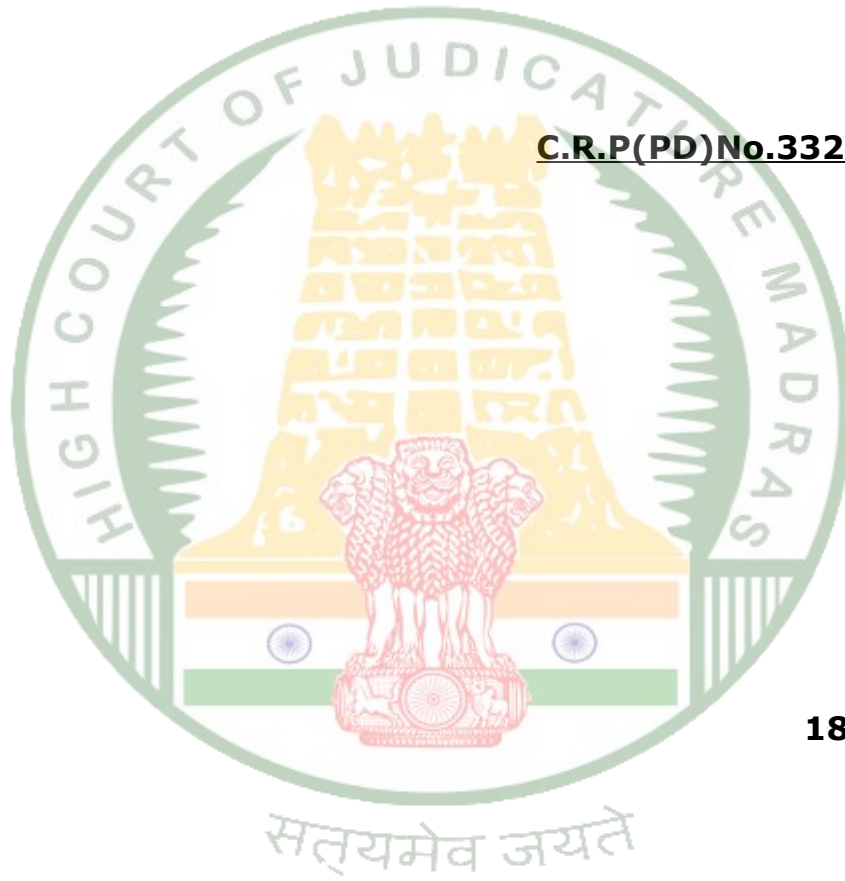
Index: Yes/No
Speaking/ Non-Speaking
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To

1. The District Munsif, Tiruttani.
2. The Section Officer, VR Section, Madras High Court.

N.SATHISH KUMAR, J.

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