

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2019

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P(PD).No.1426 of 2019

&

C.M.P.No.9360 of 2019

1.Gopal Pillai

2.Pandurangan

3.Venkatesan

4.Sekar

...Petitioners

Vs

1.P.Kanniyammal

2.L.Krishnaveni

3.P.Ramadoss

4.P.Anbazhagan

5.P.Hari

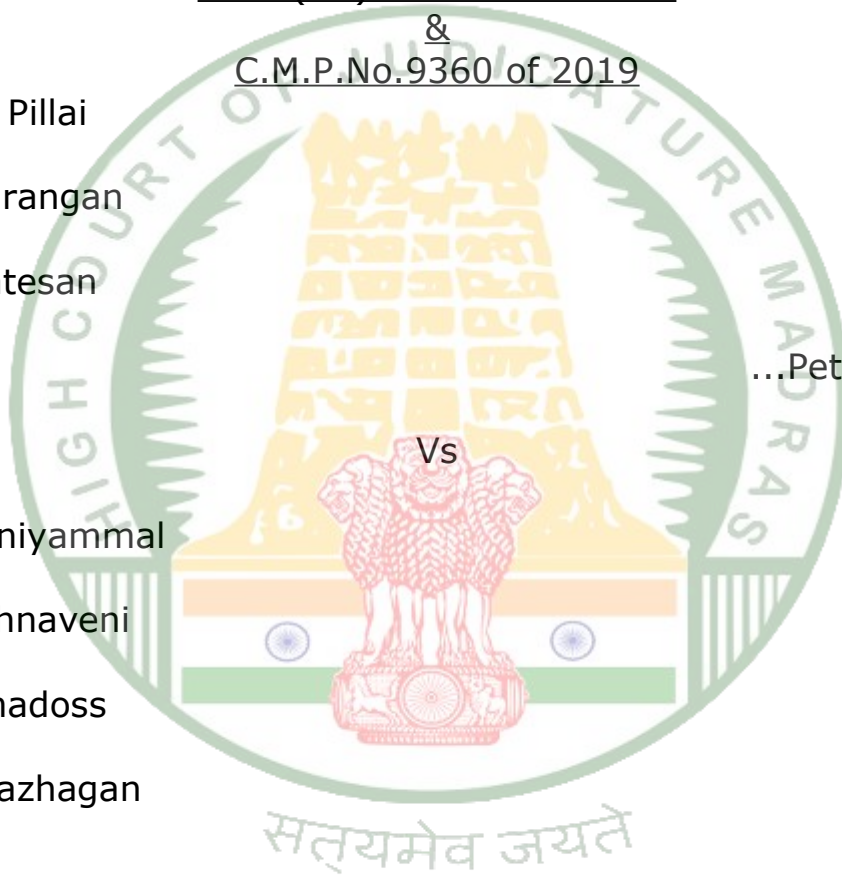
6.P.Durai

7.Saraswathi

8.Deepa

9.Sharmela

... Respondents



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Prayer: Civil Revision Petition is filed under Article 227 of the Indian Constitution against the order and decretal order in I.A.No.2167 of 2018 in O.S.No.136 of 2005 dated 02.01.2019 on the file of the learned District Munsif, Maduranthakam.

For Petitioners : Mr.V.Chandrakanthan
For Respondents : Mr.K.Govi Ganesan

ORDER

The above Civil Revision Petition is filed challenging the order of the District Munsif, Maduranthakam, dismissing the application filed by the defendants in I.A.No.2167 of 2018 in O.S.No.136 of 2005, seeking to appoint an Advocate Commissioner to measure the suit property with the help of the Taluk head Surveyor and note down the physical features of the suit property and submit his report.

2.The suit O.S.No.136 of 2005 has been filed for a bare injunction restraining the defendants from interfering with the peaceful possession and enjoyment of the suit property by the plaintiffs. The plaint consist of properties situate in three survey Nos.54/3, 54/6 and

54/7. The controversy revolves around the well situate in Survey No.54/6.

3.It appears that when the matter was posted for defendants side evidence, an application subject matter of the revision has been filed. In the counter filed by the respondents they have categorically stated that the well in Survey No.54/6 is situate within their property and the petitioners have no right to the same. The application filed by the revision petitioners for appointing an Advocate Commissioner has been dismissed by the learned Judge on the ground that the suit is one for bare injunction and consequently the property has also been inspected by the Revenue Divisional Officer and Ex.A.7 is the report filed by them.

4.Challenging the same revision petitioners are before this Court. The defense by the revision petitioners is that no prejudice would be caused to the respondents and there is a necessity to appoint an Advocate Commissioner to identify the exact location of the suit well.

5.It is needless to state that an Advocate Commissioner cannot be used for collecting the evidence. The revision petitioners have to independently establish their right. Further, as noted by the learned District Munsif, Maduranthakam, the Revenue Divisional Officer has submitted a detailed report and the same has also been marked as Ex.A.7. Therefore, considering the above, there is no infirmity in the order passed by the District Munsif, Maduranthakam.

The Civil Revision Petition is dismissed. There shall be no order as to costs. Consequently connected Civil Miscellaneous Petition is also closed.

12.04.2019

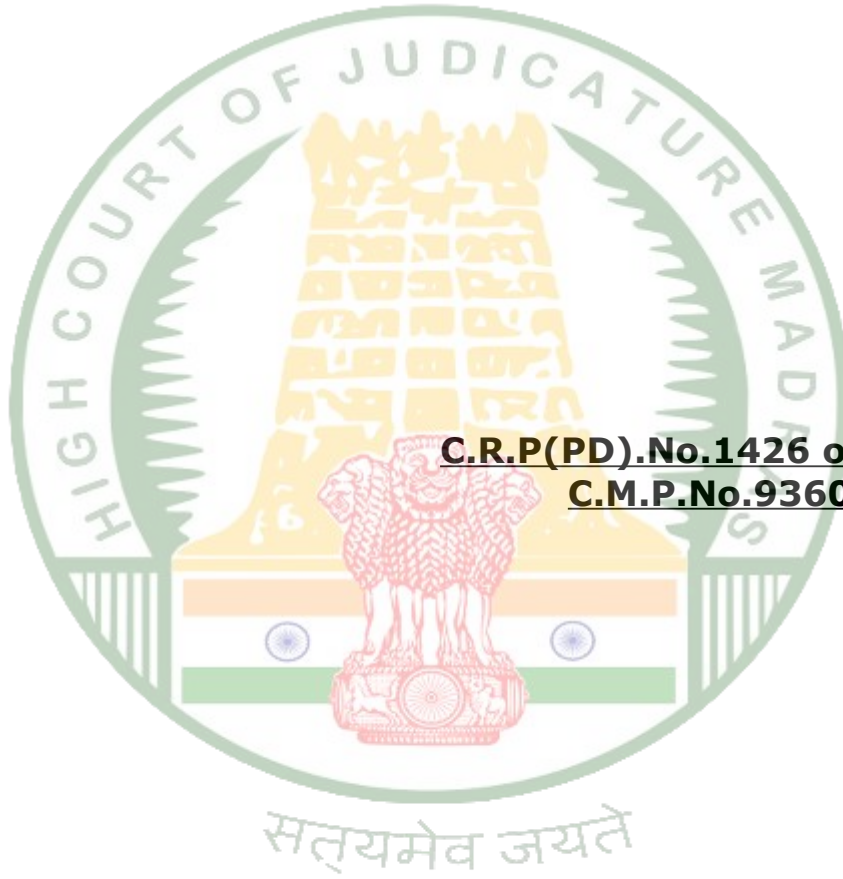
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Index : Yes/No
Speaking order/non-speaking order

To
The District Munsif, Maduranthakam.

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P.T.ASHA, J.,

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