

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2019

CORAM

THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

C.R.P.(PD).No.3181 of 2014
and
M.P.No.1 of 2014

P.Kaliperumal ... Petitioner

vs

1.A.Lakshmanan

2.Balasubramaniam

3.A.Arumugam

4.P.Mani

5.P.Sarasu

... Respondents

PRAYER: Civil Revision petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 02.06.2014 made in I.A.No.08 of 2014 in R.C.O.P.No.12 of 2010 on the file of the Principal District Munsif Court, Chidambaram.

For Petitioner : Mr.T.Balaji

For Respondents : No appearance

ORDER

The present Civil Revision Petition has been filed against the fair and decreetal order dated 02.06.2014 in I.A.No.08 of 2014 in R.C.O.P.No.12 of 2010 passed by the Principal District Munsif Court, Chidambaram.

2.By the impugned order, application filed to appoint an advocate commissioner has been dismissed.

3.The learned counsel for the petitioner is present. There is no representation on behalf of the respondents.

4.The R.C.O.P. was filed by the respondents 1 to 3 herein to vacate the petitioner and respondents 4 to 5 herein from the property, which is pending.

5.During the pendency of the R.C.O.P., the petitioner had filed I.A, to appoint the advocate commissioner for inspecting in the petition mentioned property market value of the site building etc. and file a report. The impugned order passed by the lower Court held as follows:-

"6.After hearing both sides and pursuing the entire records this court arrives to the following conclusion. The petitioner has stated that the to prove the possession of the petitioners in the petition property and ascertain the market value of the house in the petition property appointment a advocate commissioner is necessary to inspect the suit property. It is well established principle that Appointment of the advocate commissioner for proving the possession and collection of evidence is unwarranted and that too in an petition for eviction as referred by the Honourable High Court in the case of.

'Sathiskumar vs Selvadurai (2010 (2) CTC 189'

Hence this court feels that in an original petition for Eviction the appointment for advocate commissioner to collect the evidence in respect of the existence of a hut in the petition property is irrelevant and immaterial since the Respondent have also admitted the existence of a hut in the petition property.

7.Further the Main Petition is only for eviction of this Petitioners. Under this circumstances, this court can not go in to

the issue of the market value of the house in the petition property. Therefore as rightly argued by the respondent counsel, this petition seeking to estimate the value of the house in the petition property is beyond the scope and jurisdiction of the Rent Controller and also under the Rent Controller Act (TN Act 1960). Hence this Court feels that there is no justifiable reason to appoint advocate commissioner since it would only prolong the case proceedings which shall cause prejudice and undue hardship to the respondents.

8.As a result this petition is dismissed.
No cost."

6.I find no reasons in the present Civil Revision Petition to interfere with the order. The court below has rightly dismissed the application. Therefore, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

07.03.2019

Index:Yes/No
Internet :Yes/No
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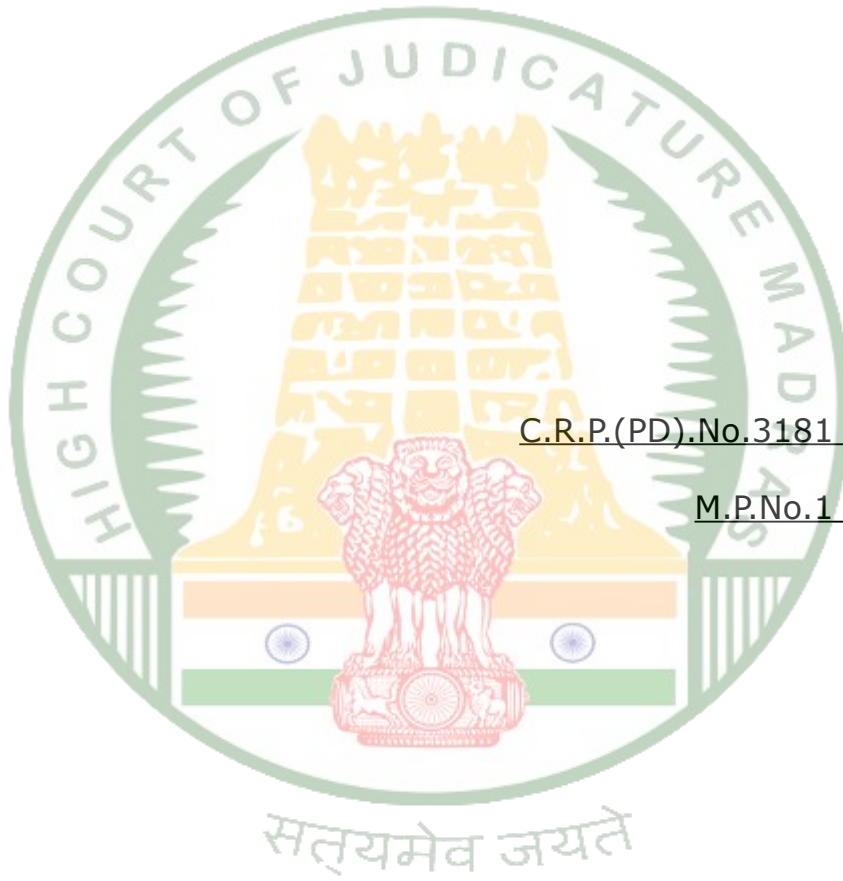
To
The Principal District Munsif Court,
Chidambaram.



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C.SARAVANAN, J.

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