

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2019

CORAM:

THE HONOURABLE Mr.JUSTICE R.SURESH KUMAR

C.R.P.(PD) No.3355 of 2019

and

C.M.P.No.21831 of 2019

1.K.Jaganathan

2.J.Leelavathi

3.J.Loganathan

4.L.Sumathra

... Petitioners

Vs.

1.S.Krishnan

2.N.Marimuthu

3.E.Sakthivel

4.K.Marisamy

5.S.Gopala Krishnan

6.S.Sankar

7.A.Sabarish

... Respondents

Prayer: Petition filed under Article 227 of the Constitution of India praying to set aside the Fair and Final order dated 05.08.2019 in I.A.No.249 of 2018 in O.S.No.157 of 2018 on the file of Principal Sub Court, Erode.

For Petitioners : Mr.Kaithamalai Kumaran

ORDER

This revision petition has been filed against the fair and decretal order passed in I.A.No.249 of 2018 in O.S.No.157 of 2018. In the said order dated 05.08.2019, the Principal Subordinate Judge, Erode had appointed an Advocate Commissioner to verify the physical feature of the suit property where, whether there had been teak wood trees and the same has been cut down or not, as against which, the present revision has been filed by the defendants.

2.The said application was filed by the plaintiffs, who filed the suit, for claiming damages also for the alleged cut of trees from the defendants and therefore, in order to ascertain whether there had been standing trees, that too, teak wood trees and these trees had been cut down by any one, first of all has to be ascertained by the Court and therefore, in order to ascertain those factors only the Advocate Commissioner has to verify the physical feature and file a report.

3.Therefore, this Court feels that, the appointment of Advocate Commissioner in this case is for a particular reason. Therefore, the

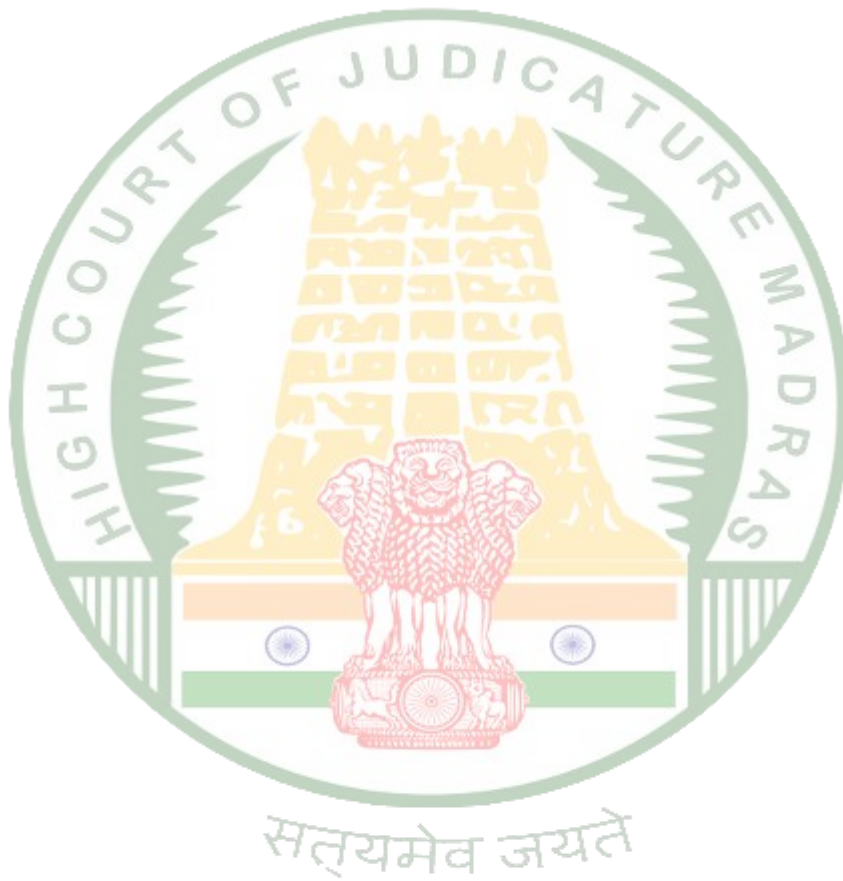
Advocate Commissioner, being an Officer of the Court, alone can file a report after verifying the physical feature as to the existence of trees and whether it had been cut down or not. Without ascertaining these basic factors, the damages claimed in the suit cannot be decided effectively.

4.The Advocate Commissioner, while making the report, can tell about the availability of trees and whether it had been cut down or not, alone can be ascertained and the Advocate Commissioner cannot ascertain who had cut down the trees. Therefore, in this context, if any adverse report is filed against the defendants, the same can very well be agitated by filing a proper objection and such objection can be taken into account by the trial Court.

5.In that view of the matter, this Court feels that, the appointment of Advocate Commissioner through the impugned order cannot be successfully assailed by the revision petitioner. Hence, this Civil Revision Petition fails and it is dismissed with the above said observation. No costs. Consequently, connected Miscellaneous Petition is also dismissed.

Sgl

06.11.2019



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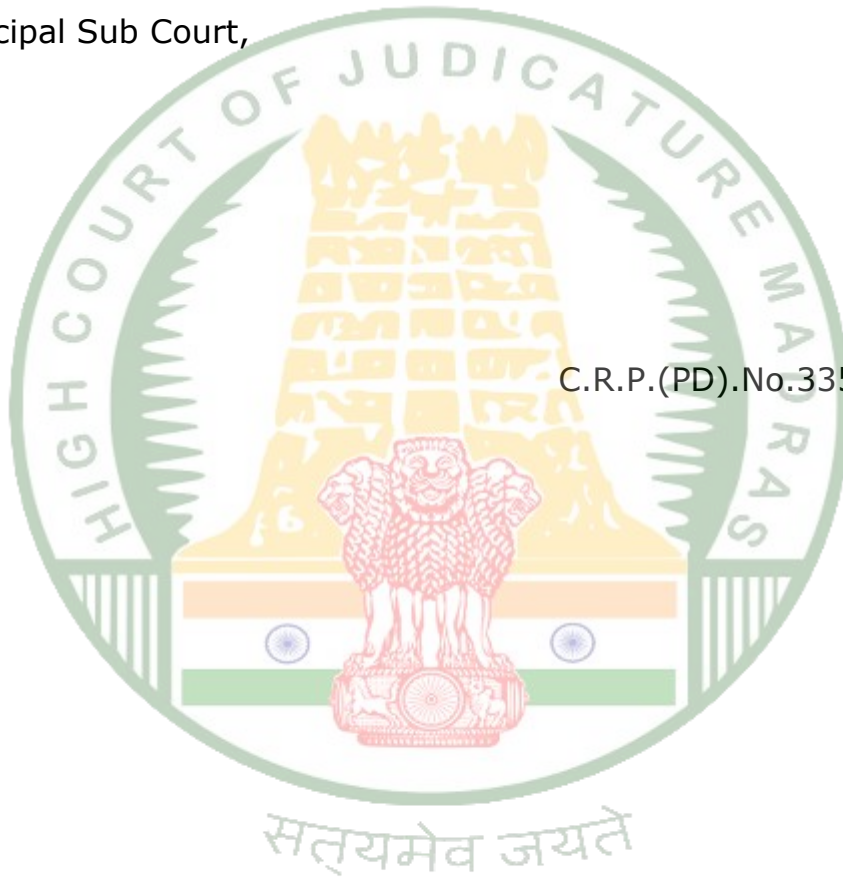
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R.SURESH KUMAR, J.

Sgl

To

The Principal Sub Court,
Erode.



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