

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2019

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

CRP.(PD)No. 3021 of 2018

and

C.M.P.No.17558 of 2018

Ponnusamay

...Petitioner

Versus

Murugesan

...Respondent

Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the fair and decreetal order dated 20.08.2018 made in I.A.No.1100 of 2012 in O.S.No.151 of 2012 on the file of the learned Principal Subordinate Judge, Namakkal.

For Petitioner : Mr.S. Mukunth

For Respondents : Mr.C.Jagadish

ORDER

The observation of the trial Court that the non filing of the Commissioner's report and plan was due to the mistake of the petitioner in not having taken proper steps to make the learned Advocate Commissioner to visit the property may not be proper. When an Advocate Commissioner was appointed and warrant is issued to him, it would be his duty to execute the warrant expeditiously after having accepted the warrant. When he failed to do

and as such the observation itself is incorrect.

2. Since the Commissioner came to be appointed on 18.11.2010 and also the respondent herein submits that they did not have an objection for appointment of another Advocate Commissioner, it would be appropriate that fresh commissioner is appointed.

3. In the light of the above observation, the order dated 20.08.2018 passed in I.A.No.1100 of 2012 in O.S.No.151 of 2012 on the file of the learned Principal Subordinate Judge, Namakkal is set-aside. Consequently, the learned Principal Subordinate Judge, Namakkal is called upon to appoint fresh Advocate Commissioner on such terms and conditions which the Court may deem fit and proper within the stipulated time for execution of the warrant, preferably within a period of ninety days from the date of receipt of a copy of this order. The remuneration fee to the Advocate Commissioner to be appointed shall be borne by the petitioner/plaintiff herein. No costs. Consequently, connected miscellaneous petition is also closed.

24.01.2019

Index: Yes/No
Internet: Yes/No

To

The Principal Subordinate Judge, Namakkal.

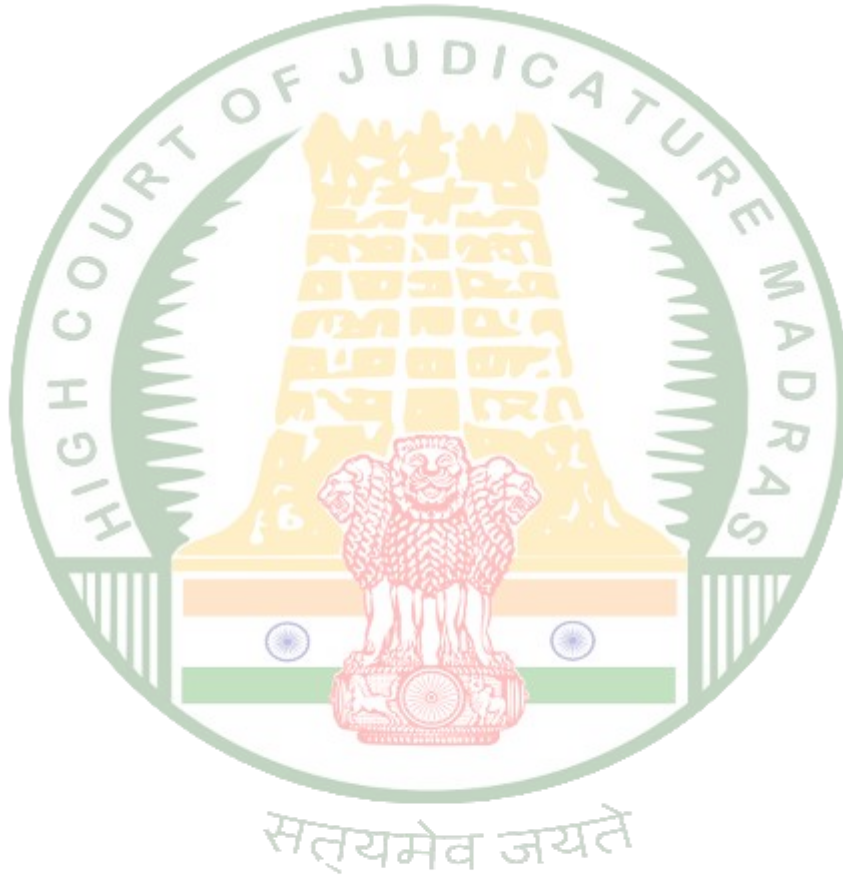
M.S.RAMESH. J.,
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