

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 22.01.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

C.R.P.(PD).No.3368 of 2018

and

C.M.P.No.19089 of 2018

Manish Agarwal

...Petitioner

Vs

J.Manikandan

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 20.09.2018 made in I.A.No.12 of 2018 in O.S.No.534 of 2008 on the file of the learned Additional District Munsif, Alandur.

For Petitioner : Mr.S.Sai Shankar

For Respondent : Mr.M.Venkatakrisnan

ORDER

The prayer sought for in the revision petition is to set aside the order dated 20.09.2018, made in I.A.No.12 of 2018 in O.S.No.534 of 2008 on the file of the learned Additional District Munsif, Alandur.

2. The challenge in the present revision is the rejection of the petitioner's application seeking to remit back the warrant of the Advocate

Commissioner or in the alternate to appoint another Advocate Commissioner for inspection.

3. The grievance of the petitioner seems to be that the Commissioner had wrongly identified the location of the properties in his report read along with the plaint. On a perusal of the report, it is seen that the Commissioner was appointed in the year 2009 and the report came to be filed only in August 2017, after he had conducted inspection on 27.05.2017. A perusal of the report itself reveals that the physical features noted in the suit properties do not tally with the plan annexed along with the report. As such, the report may not be of any assistance to the trial Court also.

4. At this juncture, the learned counsel for the petitioner submits that he does not intend to rely upon the Advocate Commissioner's report and that he may be permitted to peruse the case based on the other evidences available. The present Advocate Commissioner had been appointed at the instance of the petitioner before the trial Court.

5. The learned counsel for the respondent submits that since objections have already been filed in the Commissioner's report, it is always open to the petitioner to substantiate his case during the course of trial and

that the scrapping of the report is not required.

6. In view of the disputes which is abundantly seen in the report and the plan and also in view of the submissions made by the petitioner, the Advocate Commissioner's report dated August 2017 shall stand scrapped and the trial Court shall not place any reliance on any of the observations made in the report.

7. Since the suit is pending from the year 2008 onwards and the trial has already commenced, the learned Additional District Munsif, Alandur, shall endeavour to complete the suit proceedings as expeditiously as possible, in any event, within a period of three months from the date of receipt of copy of this order.

8. Accordingly, the Civil Revision Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

WEB COPY

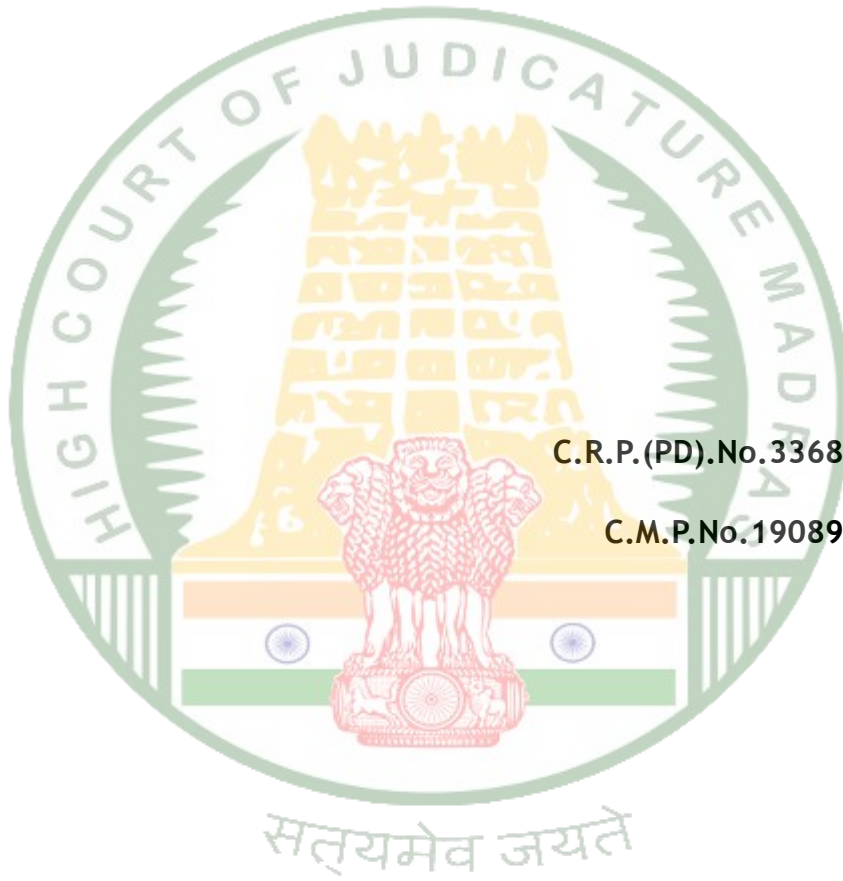
22.01.2019

Index:Yes/No
Speaking order: Yes/No
hvk

To
The Additional District Munsif, Alandur.

M.S.RAMESH.,J

hvk



**C.R.P.(PD).No.3368 of 2018
and
C.M.P.No.19089 of 2018**

WEB COPY

22.01.2019