

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2020

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

C.R.P. (PD) 2887 of 2015
and
M.P. 1 of 2015

A.Balasubramaniam

... Petitioner

Versus

V.Guruvan

... Respondent

PRAYER : Civil Revision Petition is filed under Article 227 of Constitution of India, praying to set aside the fair and decretal order dated 17.02.2015 made in I.A. 42 of 2014 in A.S. 14 of 2014 on the file of Sub-Court, Bhavani.

For Petitioner : Mr.N.Manokaran

ORDER

This Civil Revision Petition has been filed against the order dismissing the petitioner's application to appoint a Advocate Commissioner to note down the physical features of the suit property.

2. The petitioner is the defendant in the Suit in O.S. 307 of 2011. The respondent herein has filed a suit for permanent injunction in respect of the property in Survey No.619/2 of Odathurai Village. The suit has been decreed as prayed for. Against which, the petitioner herein has filed an appeal. Pending appeal, he has filed the present application to note down the physical features of the property, on the ground that, in the suit schedule property, there is a temple belongs to the villagers, and the respondent is neither the owner nor in possession of the suit schedule property. In the above circumstances, he wants to appoint a Advocate Commissioner to note down the physical features. The Trial Court has dismissed the application on the ground that, the suit has been filed for permanent injunction, in

which, the physical features do not have much role to play. Challenging the same, the present Civil Revision Petition has been filed.

3. I have heard and considered the submissions made by learned counsel appearing for petitioner and perused the records carefully.

4. It is a suit for permanent injunction, and the suit has been decreed. Pending appeal, the petitioner has filed the present application to appoint a Advocate Commissioner to note down the physical features of the property, on the ground that, there is a temple situated in the suit schedule property. If at all, any temple is situated in the suit property, the petitioner ought to have raised the issue during the trial. The Trial Court has dismissed the application holding that, in a suit for permanent injunction, the physical features of the suit properties do not have much relevance. That apart, pending appeal, the petitioner cannot come out with a new case, and sought for appointment of advocate commissioner. After considering the materials, the Trial Court has rightly dismissed the application, I find no illegality or irregularity in the order passed by the Court below,

and I find no merit in this Civil Revision Petition. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected Miscellaneous Petition in M.P. 1 of 2015 is closed.

06.01.2020

Index : Yes/No
Internet: Yes/No
Speaking/Non Speaking order
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To

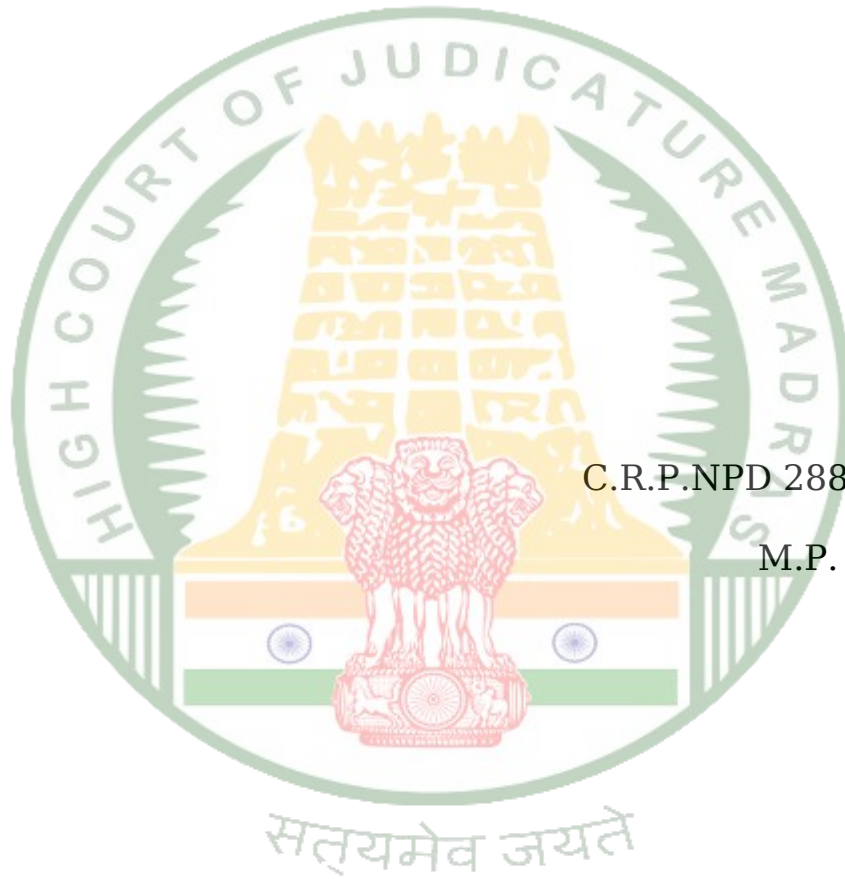
Subordinate Judge,
Sub-Court,
Bhavani.



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V.BHARATHIDASAN,J.

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and
M.P. 1 of 2015

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