

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2020

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.R.P.(PD) No.3851 of 2013

and

M.P.No.1 of 2013

1.Capt.G.A.Mustafa
2.Abdul Ali Mohamed
3.Mrs.Iqbal Vali Moideen

...Petitioners

..Vs..

1.P.Subramanian
2.K.Arumugam
3.A.Ravikumar
4.A.Devaraj
5.G.Saravanan
6.E.Ravindran
7.T.D.Muthuraj

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the judgment and decree passed in I.A.No.3832 of 2012 in O.S.No.1448 of 2012 by the learned VIII Judge, Assistant City Civil Court, Chennai.

For Petitioner : No appearance

For Respondents : No appearance

O R D E R

The learned counsel for the petitioner and the learned counsel for the respondents are absent.

2. The respondents 1 to 4 herein filed O.S.No.1448 of 2012 for the relief of declaration declaring the sale deeds executed by the defendants 1 to 3 in favour of defendants 4 to 6 as null and void and for permanent injunction restraining them from putting up any construction. Written statement was filed and the same was registered.

3. Pending suit, the plaintiff filed I.A.No.3832 of 2012 for appointment of Advocate Commissioner under Order 26 Rule 9 C.P.C alleging that the ingress and egress of the property is only through his land and hence, physical features and the location of the property is necessary. The plaintiffs had claimed the easementary right and hence, he filed the I.A 3832 of 2012. The said I.A was allowed on the ground that the plaintiffs are claiming easementary rights and ingress and egress through that lane and the defendants are contending that the plaintiffs are having other side. Considering the facts and circumstances of the

case, it is absolutely necessary to appoint an Advocate Commissioner to measure the property and to note down the physical features for the better appreciation of the case.

4. After going through the rival claims made as well as the plaint and the written statement, the trial Court has rightly applied its mind and also taking note of the claim of the plaintiffs regarding easementary rights and the ingress and egress through the lane of the plaintiffs and rightly observed that report of the Advocate Commissioner regarding the physical features of the property in question is necessary for attachment and has ordered for appointment of Advocate Commissioner. I do not find any error in the impugned order.

5. Hence, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index:Yes/No

Speaking Order:Yes/No

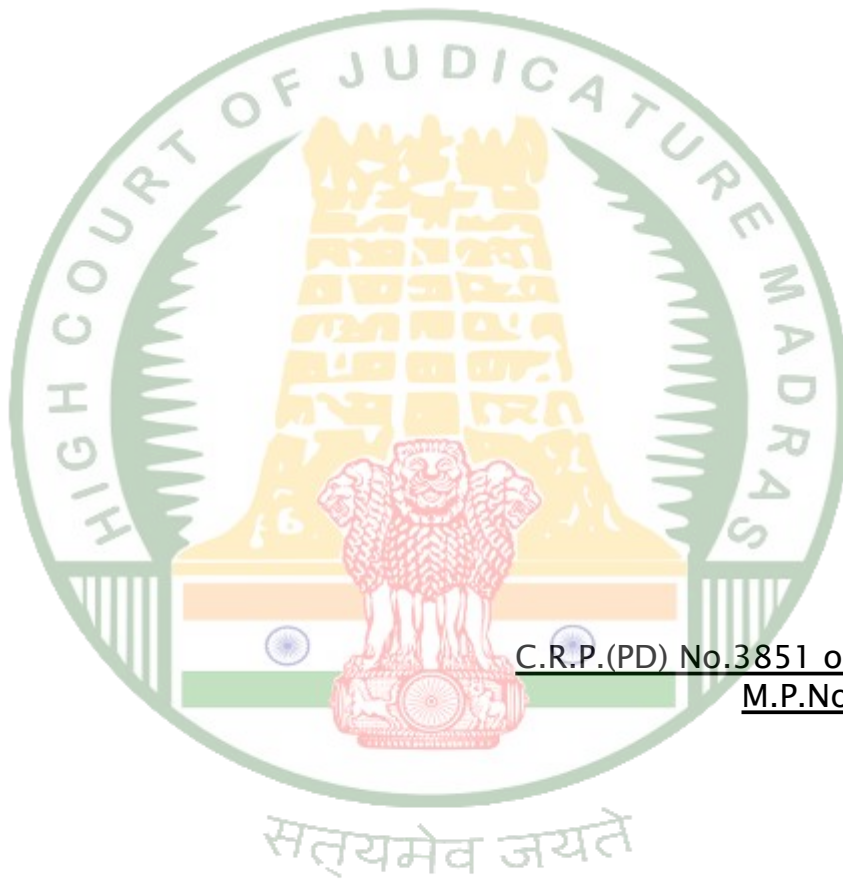
To

The VIII Judge, Assistant City Civil Court, Chennai.

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RMT.TEEKAA RAMAN,J.,

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