

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2020

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

C.R.P. PD 2389 of 2019

A.Kamaludeen ... Petitioner

Versus

1. M.Shakul Hameed

2. S.Sabitha Begam

... Respondents

PRAYER : Civil Revision Petition is filed under Article 227 of Constitution of India, praying to set aside the fair and decretal order dated 22.11.2018 in I.A. 245 of 2018 in O.S. 43 of 2017 on the file of District Munsif cum Judicial Magistrate, Needamangalam.

For Petitioner : Mr.D.Padmanabhan

ORDER

This Civil Revision Petition has been filed against the order dismissing the petitioner's application to appoint an advocate commissioner to measure fourth item in the suit schedule property with the help of surveyor.

2. The petitioner is the plaintiff. He has filed a suit for mandatory injunction to remove the construction put up in the fourth item of suit schedule property, and restore it to its original position. In the above suit, the petitioner has filed an application to appoint an advocate commissioner to measure fourth item of suit schedule property with the help of surveyor. That application has been dismissed by the Trial Court. Challenging the same, the present Civil Revision Petition has been filed.

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

4. The suit has been filed for mandatory injunction, to demolish the construction put up in item No.4 of suit schedule property, which is extracted hereunder :-

“ப.புல எண்.165பி/4ஏ, பு.புல எண்.216/23ல் அமைந்துள்ள பொது பழுக்கம் உள்ள தெருத்திண்ணை நான்கெல்லை கீழ்த்தெருவிற்கு மேற்கு, கதவு எண்.3/77 எண் கொண்ட பிரதிவாதி வீட்டிற்கு கிழக்கு, தெற்கு, பொது பழுக்க சந்திற்கு வடக்கு இதற்குட்பட்ட 12 அடி நீளம் 5 அடி அகலம் உள்ள 60 சதுரடி விஸ்தீரணமுடைய பொது தெருத்திண்ணை”

In the suit, the petitioner has specifically given the exact extent of the property in the schedule of property. Hence, there is no dispute regarding identity of the property. That being so, there is no need to appoint an advocate commissioner to measure the property with the help of Surveyor, and only to drag on the proceedings, the petitioner has filed the above application. The Trial Court, after considering the above materials, has rightly dismissed the application. I also gone through the entire materials available on record, 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, this Civil Revision Petition stands dismissed. No costs.

03.02.2020

Index : Yes/No

Internet: Yes/No

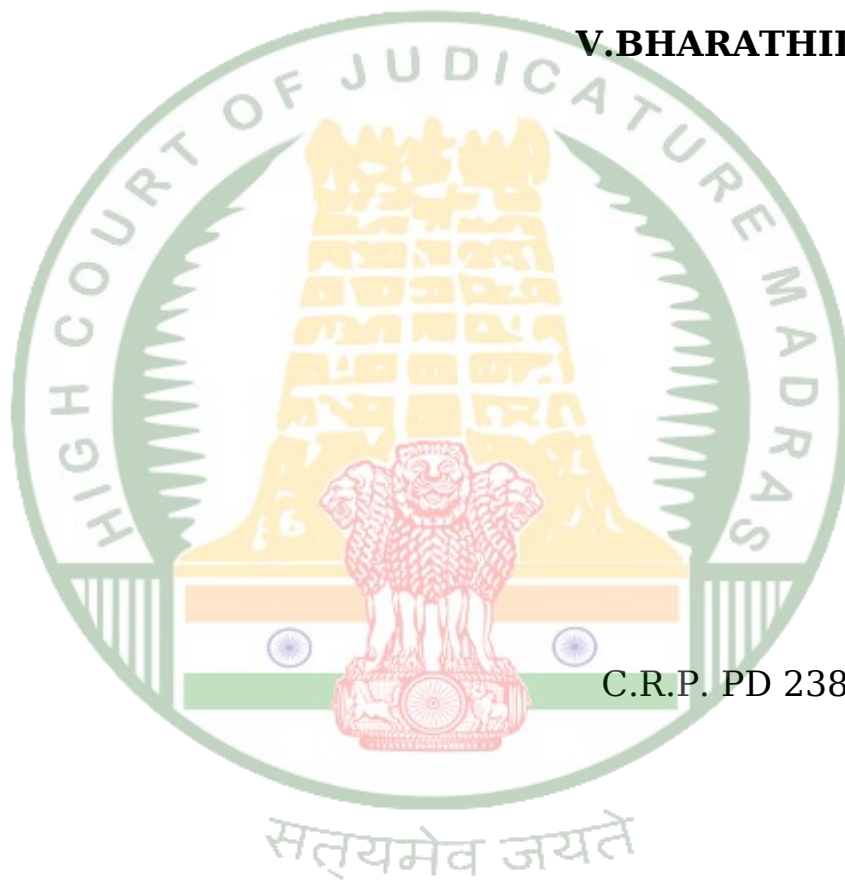
Speaking/Non Speaking order
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To

District Munsif cum
Judicial Magistrate,
Needamangalam.

V.BHARATHIDASAN,J.

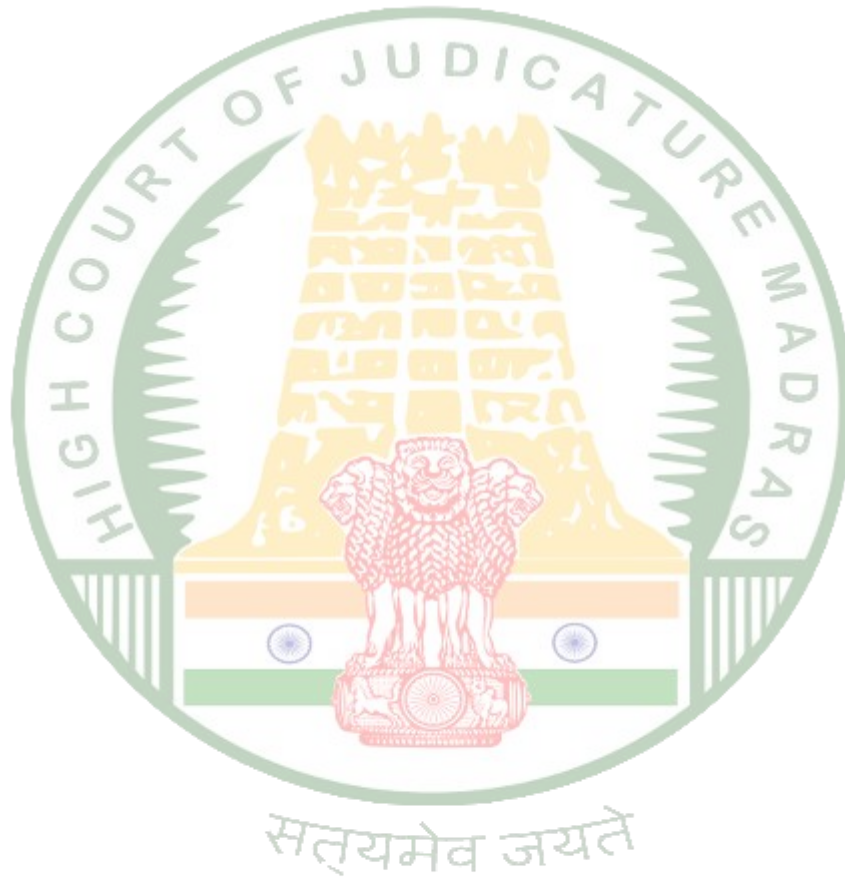
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