

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2020

CORAM:

**THE HONOURABLE MR. JUSTICE R.SUBRAMANIAN**

CRP.(PD).No.2284 of 2018  
and  
C.M.P No.14256 of 2018

K.Babu

... Petitioner

Vs.

1.G.Kannappan  
2.Kannappan

... Respondents

**PRAYER:** Civil Revision Petition filed under Article 227 of Constitution of India, to allow this revision petition and set aside the fair and decretal order dated 25.01.2018 passed in I.A.No.551 of 2017 in O.S.No.164 of 2016 on the file of the learned Additional District Munsif Court, Cuddalore.

For Petitioner

: Mr.R.Gururaj

For Respondents

: Mr.T.S.Baskaran for R2  
No Appearance for R1

**ORDER**

This Civil Revision Petition has been filed challenging the fair and decretal order 25.01.2018 passed in I.A.No.551 of 2017 in O.S.No.164 of 2016 on the file of the learned Additional District Munsif Court, Cuddalore.

2. Heard Mr.Gururaj, the learned counsel appearing for the petitioner and Mr.T.S.Baskaran, the learned counsel appearing for the respondents.

3. This revision is against the order dismissing the application seeking appointment of Advocate Commissioner to note down the physical features of the suit property. The suit was filed by the petitioner seeking permanent injunction restraining the respondents/defendants from interfering with his peaceful possession except under due process of law. The claim of the petitioner is that he is a tenant under the respondents. While admitting the possession of the Plaintiff the

respondents made various allegations regarding non-payment of rent etc., The respondents have also stated that they are taking steps to evict the petitioner/plaintiff as per law. Pending suit, the petitioner came up with an application in I.A.No.551 of 2017 seeking appointment of an Advocate Commissioner to note down the physical features and the said application was opposed on the ground that the suit being one for permanent injunction restraining the defendants from interfering with the plaintiff's possession except under due process of law an application for appointment of a commissioner is beyond the scope of the suit. The learned trial Judge accepted the defence and dismissed the application. Hence, this revision.

4.The above narration of facts itself would show that the very application in I.A.No.551 of 2017 is wholly misconceived and beyond the scope of the suit. As already pointed out, the suit is one for permanent injunction. The possession and tenancy of the plaintiff is admitted by the defendants. No doubt, in the written statement, they have made certain averments regarding the usage of the premises, that by itself

would not give cause of action to the plaintiff to seek appointment of Advocate Commissioner. Therefore, I do not see any error or material irregularity in the order of the trial Court so as to necessitate interference. Hence, this revision fails and it is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

**03.11.2020**

Internet : Yes/No  
Speaking Order/Non Speaking Order  
Index : Yes / No  
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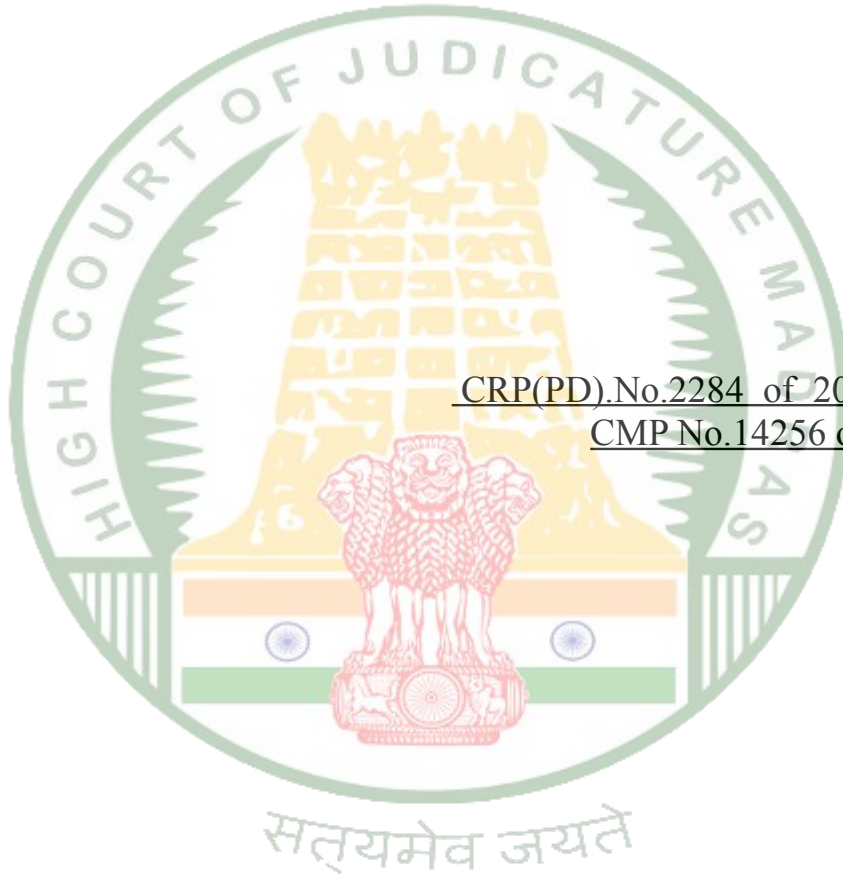
1. The Additional District Munsif Court, Cuddalore.
2. The Section Officer, V.R.Section, High Court, Madras.

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C.R.P(PD).No.2284 of 2018

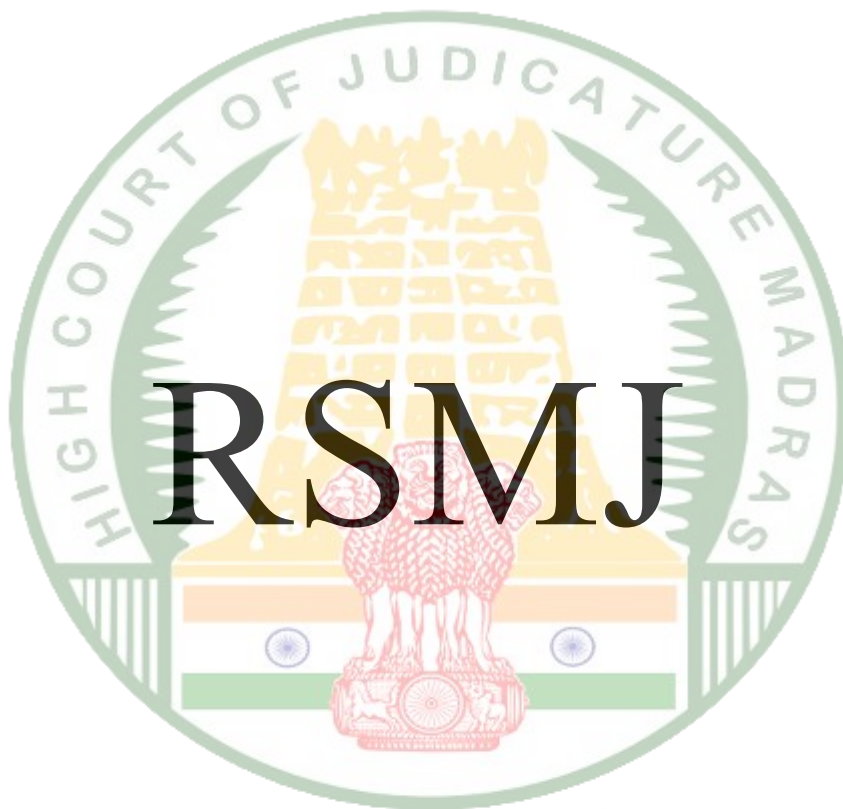
**R.SUBRAMANIAN,J**

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