

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2020

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.R.P.(PD)No.2344 of 2014

and

M.P.No.1 of 2014

Vadivelan

... Petitioner

...Versus...

1.Chandramohan  
2.Chadrabose  
3.Ragupathy  
4.Ramamurthy  
5.Basheer Ahamed

... Respondents

PRAYER:This Civil Revision Petition has been filed under Section 227 of Constitution of India, to set aside the fair and final order of the Additional Sub-Court, Mayiladuthurai, dated 22.04.2014 made in I.A.No.21 of 2014 in O.S.No.6 of 2014.

For Petitioner

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Mr.S.Sounthar

For R1,R2,R3&R5

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Mr.K.Subburam

For R4

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No appearance

ORDER

The plaintiff is the revision petitioner herein. He has filed a suit in O.S.No.6/2014 before the Additional Sub-Court, Mayiladuthurai for a bare injunction and the matter stands posted for filing counter in I.A and filing written statement in the suit. The defendant filed I.A.No.21/14 for appointment of Advocate Commissioner to note down the physical features and also whether any encroachment has been made or not and that application has been allowed and hence, this Civil Revision Petition.

2. Heard the learned counsel for the petitioner.

3. The learned counsel for the respondents submits that in respect of the very same suit property, the South Arcot Diocesan Corporation, Cuddalore has filed a suit wherein the plaintiff herein is the tenant. The suit was dismissed. The South Arcot Diocesan Corporation, Cuddalore filed a suit against the defendants herein and the same was dismissed and the appeal was also allowed to be dismissed for default and hence, he filed in I.A. for ascertainment of whether the defendants is in occupation of the building.

4. Taking note of the fact that the counter and written statement filed or not and filed in I.A and suit respectively and also taking note of the fact that unless there is a dispute with regard to the plaintiff's possession, I.A for appointment of Advocate Commissioner to note down the physical features who is in possession amounts to collection of evidence which is unsustainable in law.

5. In this view of the matter, this Civil Revision Petition is allowed and the order in I.A is set aside. However, since the respondents has not filed written statement in the suit, subject to the stand to be taken by the respondents/defendants in the written statement, he is at liberty to move the similar application if he is so be advised. No costs. Consequently, connected Miscellaneous Petition is closed.

सत्यमेव जयते 27.02.2020

nvi

Index:Yes/No

Internet:Yes/No

Speaking Order:Yes/No

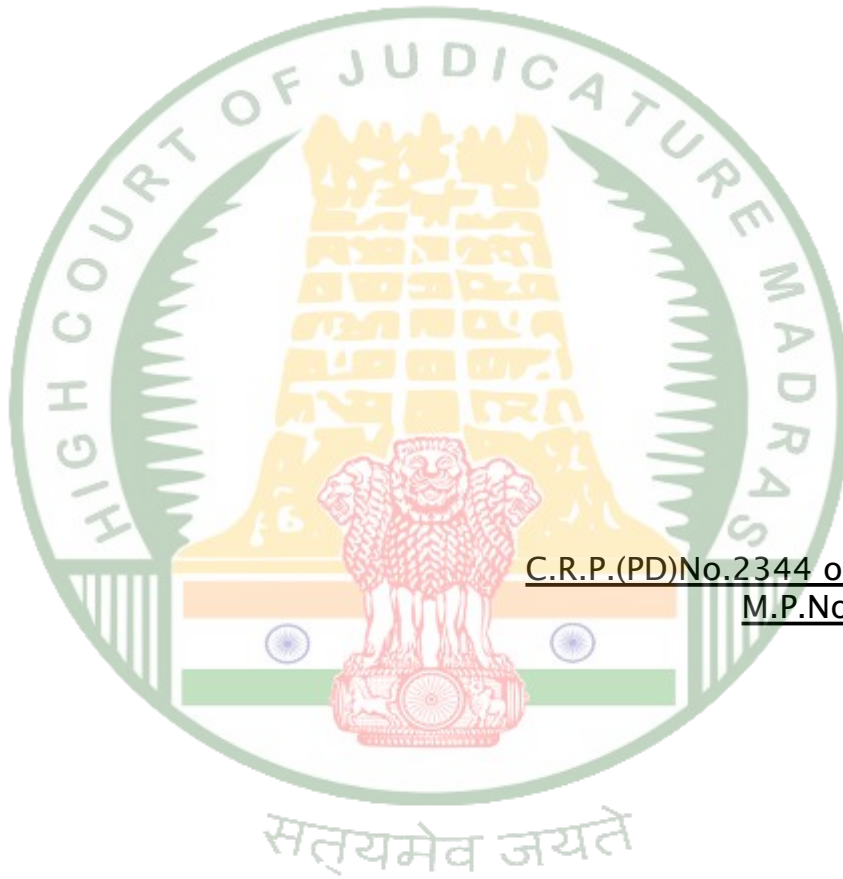
To

The Additional Sub-Court, Mayiladuthurai

C.R.P.(NPD)No.2344 of 2014

RMT.TEEKAA RAMAN,J.,

nvi



Order in  
C.R.P.(PD)No.2344 of 2014 and  
M.P.No.1 of 2014

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