

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2020

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THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

C.R.P. PD 4252 of 2019

and

C.M.P. 27729 of 2019

Mr.S.Natarajan ... Petitioner

Versus

S.Elangovan ... Respondent

PRAYER : Civil Revision Petition is filed under Art. 227 of Constitution of India, praying to set aside the Fair and decretal order of learned Subordinate Judge of Uthangarai dated 19.10.2019 in I.A. 1 of 2019 in O.S. 163 of 2017.

For Petitioner : Mr.V.Nicholas

ORDER

This Civil Revision Petition has been filed against the order dismissing the petitioner's application to appoint Advocate Commissioner to measure the suit schedule property with the help of Surveyor, and also to note down the physical features.

2. The respondent herein filed a suit for declaration declaring his right over the suit schedule property, and also for consequential permanent injunction. In the above suit, the petitioner has filed a written statement disputing the title of the plaintiff. After commencement of trial, and after closure of plaintiff's evidence, the petitioner has come out with an application to appoint an advocate commissioner to measure the property, and also to note down the physical features, on the ground that the petitioner is in possession of the property, and he is running a brick chamber, and also raised mango trees and other trees. That application came to be dismissed by the Trial Court. Challenging the same, the present Civil Revision Petition has been filed.

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

4. In a suit for declaration, it is for the plaintiff to prove his title, and get a decree. If at all, the petitioner/defendant have

valid title, or in possession of the property, it is for him to prove the same with necessary evidence, and cannot collect evidence by appointing advocate commissioner. That apart, while considering the application, the Trial Court has clearly stated that, there is no dispute with regard to identity, measurements and physical features of the suit schedule property, and there is no necessity to appoint an advocate commissioner, that too, after the commencement of trial. Considering the facts and circumstances, the Trial Court has rightly dismissed the application. Therefore, there is no illegality or irregularity in the order, I find no merit in this Civil Revision Petition. Accordingly, this Civil Revision Petition stands dismissed. No costs. Consequently, the connected Civil Miscellaneous Petition in C.M.P. 27729 of 2019 is closed.

सत्यमेव जयते

03.01.2020

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

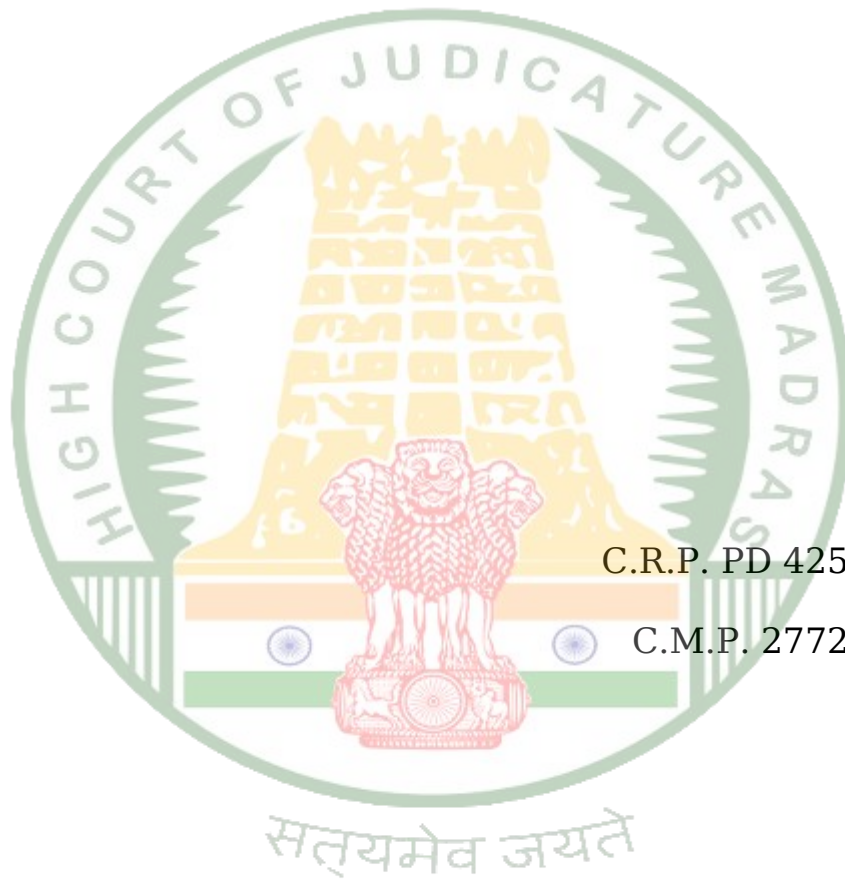
Subordinate Judge,

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Uthangarai.

V.BHARATHIDASAN,J.

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