

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P(PD)No. 3389 of 2018

and

C.M.P.No. 19149 of 2018

S.Rajasekaran

...Petitioner

Vs.

Rani

...Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order and decretal order dated 17.04.2018 in I.A.No. 1009 of 2017 in O.S.No. 75 of 2015 passed by the learned Principal District Munsif Court, Cuddalore.

For Petitioner : Mr.R.Karunakaran

For Respondent : No appearance

ORDER

The first defendant in O.S.No. 75 of 2015 has come up on revision aggrieved by the dismissal of his application for appointment of Advocate Commissioner to measure the suit property with the help of a

Surveyor.

2. The suit is one for recovery of possession filed by the plaintiff on the strength of title. The defendants would resist the suit contending that the plaintiff has appointed the first defendant as power agent for sale of the property. It is also claimed that the first defendant discovered that the plaintiff is not the owner of the entire property. Therefore, the first defendant has come up with the application seeking appointment of Commissioner. The Trial Court has dismissed the application on the ground that the application is an attempt to drag on the suit.

3. I have heard Mr.R.Karunakaran, learned counsel for the petitioner. The respondents though served is not appearing either in person or through counsel, duly instructed.

4. I am in entire agreement with the conclusions of the Trial Court. As already stated, the suit is one for possession based on title. The plaintiff has to prove her title in order to succeed in the suit. The defendant, cannot in a suit for possession, seek appointment of Commissioner to

procure evidence.

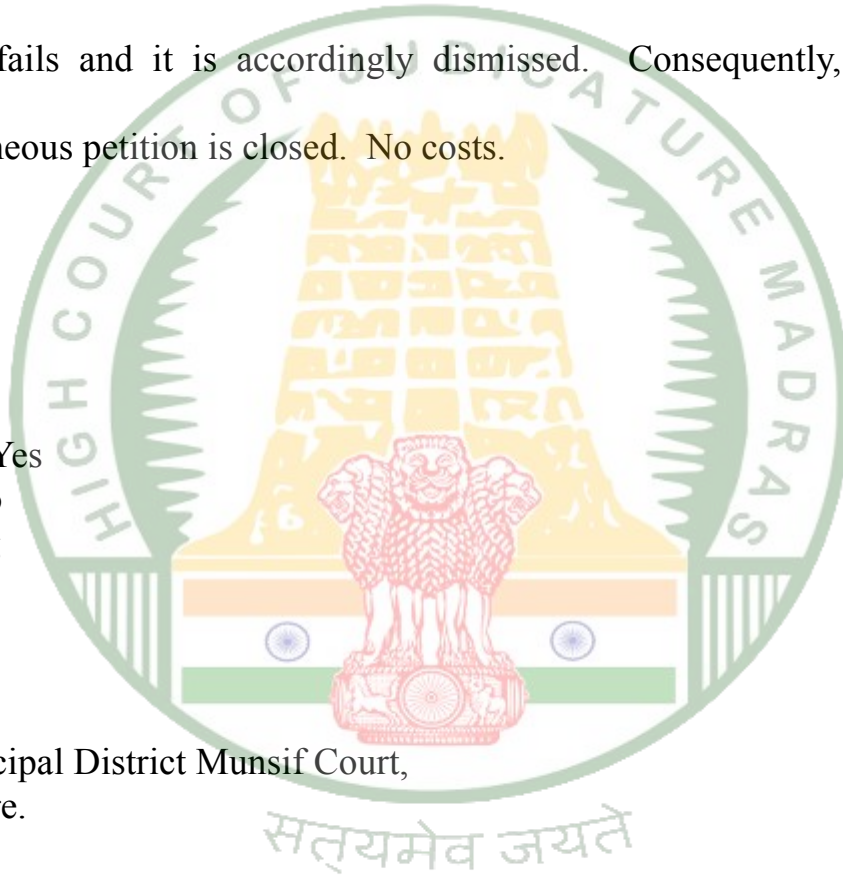
5. In view of the above, I do not see any material irregularity or illegality in the order of the Trial Court. Therefore, this civil revision petition fails and it is accordingly dismissed. Consequently, connected miscellaneous petition is closed. No costs.

09.12.2020

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Internet:Yes
Index:No
Speaking

To:

The Principal District Munsif Court,
Cuddalore.



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R.SUBRAMANIAN, J.



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