

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2021

Coram

The Hon'ble Mr. Justice **C.V.KARTHIKEYAN**

C.R.P.PD.No.159 of 2019
and
C.M.P.No.1343 of 2019

S.Vetriselvan

... Petitioner/Petitioner/2nd Defendant
Vs

1.B.Vedanayaki

2.B.Selvaraj

3.B.Kanchana

4.B.Yuvasri (Minor)

5.B.Jeyasri (Minor)

4 and 5 minors rep.by their guardian and mother B.Kanchana

6.B.Srinivasan

7.B.Tulasi

8.B.Venu

9.Geja

10.K.Babu

11.K.Parthasarathy

12.D.Santhanam

13.Pushpavani

14.S.Saravanan

15.D.Raniammal

16.D.Karthik

17.N.Deepa

18.D.Gunasekaran

All represented by their power agent 12th respondent/plaintiff on behalf of himself and on behalf of other respondents/plaintiffs

... Respondents/Respondents/Plaintiffs

19.The Sub Registrar,
SRO, Tamabaram – 600 059.

... Respondent/Respondent/4th defendant

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order passed in I.A.No.660 of 2018 in O.S.No.6 of 2016 dated 11.12.2018 passed by the District Munsif Court, Tambaram.

For Petitioner	...	Mr.G.Ilamurugu
For R1 to R18	...	Mr.T.Thiyagarajan
For R19	...	Dr.S.Suriya, Govt. Advocate (Civil Side)

ORDER

The 2nd defendant in O.S.No.6 of 2016 which is now pending on the file of the District Munsif Court, Tambaram is the revision petitioner herein. O.S.No.6 of 2016 had been filed seeking a declaration that Sale Deed dated 31.05.1982 registered as Document No.134 of 1982 in the office of the Sub-Registrar, Tambaram and dated 06.03.2014 registered as Document No.2055 of 2014 in the office of the Sub-Registrar, Tambaram and again dated 06.03.2014 registered as Document No.2056

of 2014 in the office of the Sub-Registrar, Tambaram, as null and void and also for a permanent injunction restraining the defendants from interfering with peaceful possession and also for a restraint order against the 4th defendant / Sub-Registrar, Tambaram, from registering any document with respect to the suit schedule property and also for costs.

2.The suit had proceeded in its normal way. The plaintiff originally filed I.A.No.843 of 2016 seeking appointment of an Advocate Commissioner under Order XXVI Rule 9 of CPC. The 2nd defendant had earlier filed an application in I.A.No.652 of 2016 for the very same relief. Both these applications were dismissed. Thereafter, the 2nd defendant filed another application seeking appointment of an Advocate Commissioner in I.A.No.660 of 2018 and that application was also dismissed on 11.12.2018 and that order is now tested under this Revision Petition.

3.The learned counsel for the Revision Petitioner stated that it is the contention of the plaintiffs in the suit that the properties are vacant properties, but there are actually buildings and to determine that particular fact, appointment of an Advocate Commissioner to note down the physical features is required.

4.The learned counsel for the plaintiffs on the other hand stated that that similar applications had been filed earlier, both by the plaintiffs and 2nd defendant / revision petitioner and both the applications were came to be dismissed and once again a similar application had been filed by the revision petitioner / 2nd defendant and the learned District Munsif had correctly rejected grant of any relief.

5.Having perused the records, I am of the opinion that appointment of an Advocate Commissioner would not further the case of either the plaintiff or the 2nd defendant. The suit has been filed primarily for declaration that three sale deeds are null and void. Execution of the sale deeds have to be tested by the trial Court on the basis of the evidence adduced.

6.It is clear that both the plaintiffs and the 2nd defendant more particularly the 2nd defendant is attempting to establish possession and for that aspect seeks assistance of the Court by filing application for appointment of an Advocate Commissioner. An Advocate Commissioner cannot appointed in a suit of the present nature and if at all the nature of the property is deemed to be a relevant factor, the petitioner herein can

lead necessary evidence in that regard and urge upon the court to take that into consideration. The revision petitioner should also subject himself for cross-examination on the evidence that he leads.

7.Holding that there is no infirmity in the order passed by the learned District Munsif, Tambaram, this Civil Revision Petition is dismissed. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

8.Let the parties go back to the Trial Court and agitate all the issues before the said Court.

23.06.2021

Internet:Yes/No

Index:Yes/No

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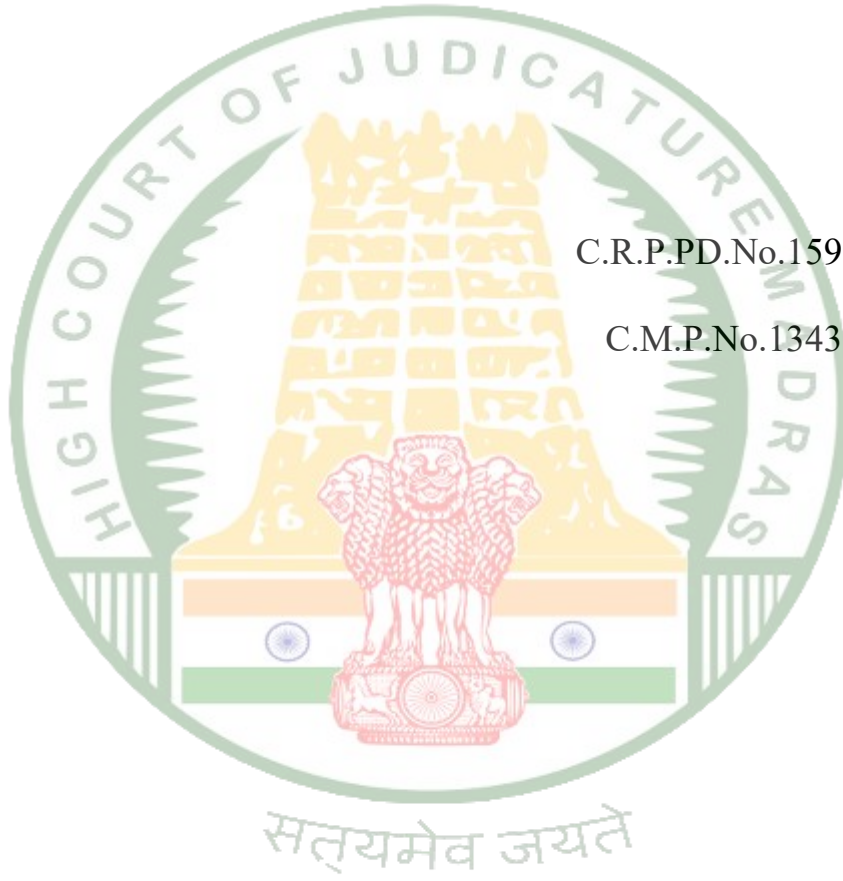
To

The District Munsif Court, Tambaram.

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C.V.KARTHIKEYAN,J.

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