

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.PD.No.121 of 2018
and CMP.No.662 of 2018

Seerangayammal
W/o. Periyasamy

...Petitioner

Vs.

Peramayammal

...Respondent

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India, 1950 to set aside the fair and final order passed in I.A.No.470 of 2017 in O.S.No.510 of 2016 dated 14.11.2017 on the file of the I Additional District Munsiff Court, Bhavani by allowing the present Civil Revision Petition.

For Petitioner : Mr.MA.P.Thangavel

For Respondent : Notice Served
No appearance

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ORDER

This Civil Revision Petition is filed to set aside the fair and final order passed in I.A.No.470 of 2017 in O.S.No.510 of 2016 dated 14.11.2017 on the file of the I Additional District Munsiff Court, Bhavani, thereby, dismissing the application filed by the petitioner for appointment of Advocate Commissioner.

2. Though, notice has been served to the respondent, no one appeared on behalf of the respondent through pleader or in person.

3. The petitioner is the plaintiff and the respondent is the defendant in O.S.No.510 of 2016. The petitioner filed a suit for mandatory injunction to remove the encroachment from the suit property made by the respondent in respect of "B" Schedule property, and in respect of "A" Schedule property, Advocate Commissioner may be appointed to measure the suit property and to demarcate the boundaries. While pending suit, the petitioner filed an application in I.A.No.470 of 2017 for appointment of Advocate Commissioner so that he can survey the land and find out the encroachment by the defendant in the "B" Schedule property. Pursuant to the affidavit filed

by the petitioner for appointment of Advocate Commissioner, the respondent filed a written statement stating that she is not in possession and enjoyment of the property and denied the allegation made by the petitioner. Therefore, this Court is of the opinion that it is necessary to appoint an Advocate Commissioner to inspect the suit property so that the report can find out the encroachment made by the respondent, if any.

4. In view of the above, the Civil Revision Petition stands allowed. The order dated 14.11.2017 passed in I.A.No.470 of 2017 in O.S.No.510 of 2016 passed by the I Additional District Munsiff Court, Bhavani, is set aside. The I Additional District Munsiff Court, Bhavani, is directed to appoint an Advocate Commissioner as prayed for by the petitioner/plaintiff at the earliest. Consequently, connected miscellaneous petition is closed. No order as to costs.

सत्यमेव जयते

22.06.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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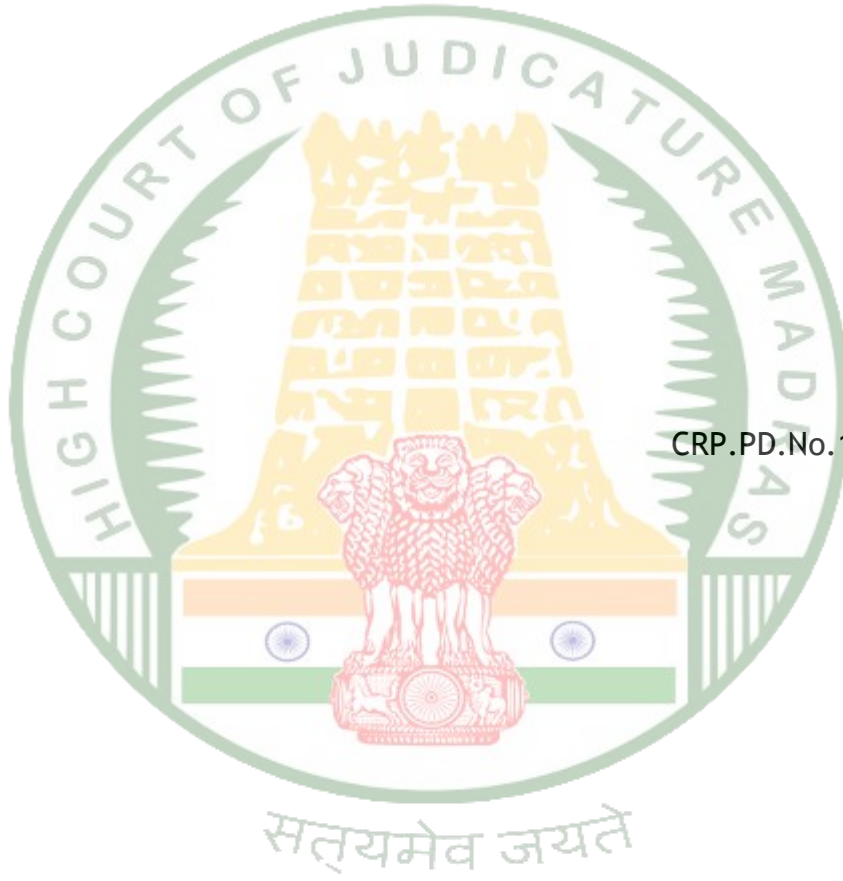
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G.K.ILANTHIRAIYAN,J.

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To

The I Additional District Munsif Court,
Bhavani.



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