

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2021

CORAM

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

CRP.PD.No. 207 of 2018

and

CMP.No.1169 of 2018

S.Natarajan

... Petitioner

Vs.

Mani

... Respondent

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 07.12.2017 passed in I.A.No.361 of 2017 in O.S.No.561 of 2015 on the file of the Principal Sub Court, Salem and allow the above Civil Revision Petition.

For Petitioner : Mr.J.Prithivi

For Respondent : Mr.C.Prabakaran

ORDER

This Civil Revision Petition is directed against the fair and decretal order passed in I.A.No.361 of 2017 in O.S.No.561 of 2015 dated 07.12.2017 on the file of the learned Principal Sub Judge, Salem, thereby dismissing the petition for appointment of Advocate Commissioner.

2. The petitioner is defendant and the respondent is the plaintiff. The respondent filed a suit for partition. Pending the suit, the petitioner filed a petition for appointment of Advocate Commissioner to inspect the suit property and find out the age of the building in the suit property and assess the value of the same with the help of qualified Civil Engineer through PWD, Salem.

3. On a perusal of the affidavit filed in support of the petition for appointment of Advocate Commissioner, it reveals that in the suit, there was only a Madras terraced house in the suit property and after the family arrangement held about 20 years ago between the petitioner and his father, the petitioner spent more than Rs.6 lakhs to build a new house in the suit property in the year of 2009. Thereafter, the building was treated as absolute property to the knowledge of entire world including the respondent herein. The expenditure incurred by him for constructing new house in the suit property is also known to the respondent herein. While that being so, the petitioner can very well produce the original documents to show that the petitioner only constructed the house in the suit property and he is in possession and enjoyment of the suit property. Therefore, the appointment

of Advocate Commissioner is nothing but collection of evidence. As such, the Court below rightly dismissed the petition and this Court finds no infirmity or illegality in the order passed by the Court below.

4. Accordingly, this Civil Revision Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

09.04.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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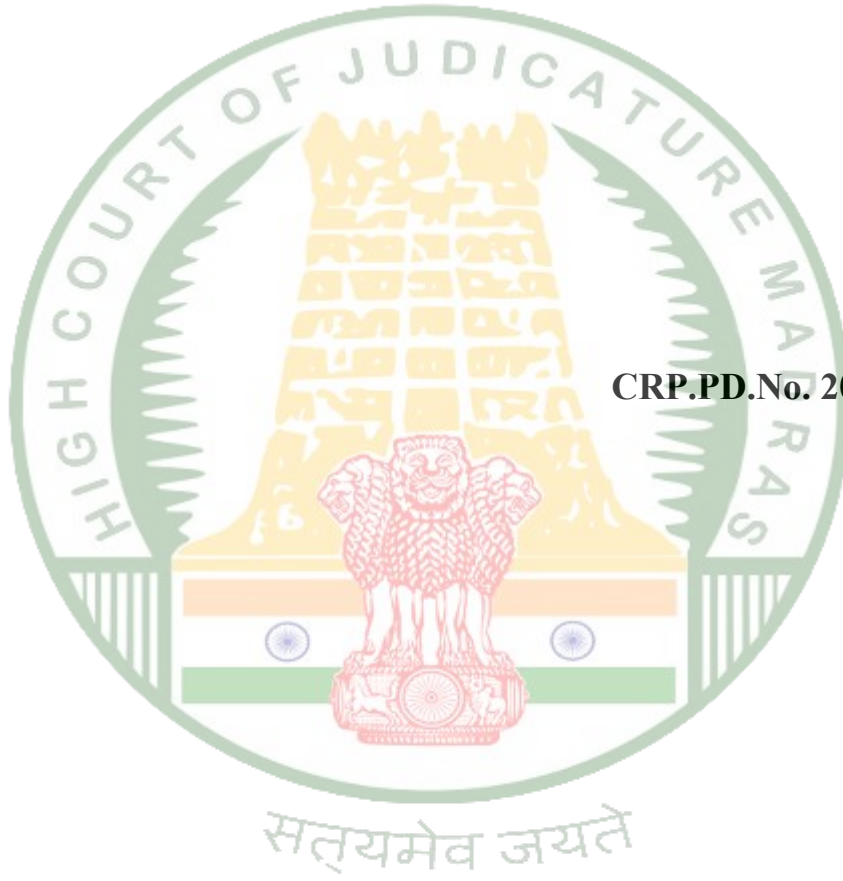
To

1. The Principal Sub Judge, Salem.
2. The Section Officer,
V.R.Section, High Court of Madras.

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G.K.ILANTHIRAIYAN,J.

Kv



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