

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2021

CORAM:

THE HONOURABLE Mr. JUSTICE G.K. ILANTHIRAIYAN

**C.R.P.PD.No.2120 of 2016
and
CMP.No.11060 of 2016**

Jayarama Kounder

... Appellant

-Vs-

1. Kuppusamy

2. Ayyanar (died)

3. Poogavanam

4. Vijaya Kumari

5. Rama Murthy

6. manimaran

7. Thanavalli

... Respondents

(R3 to R7 brought on record as LR's of the deceased R2 vide Order dated 15.02.2021 made in CMP.No.7304, 7305 & 7306 of 2017 in CRP.PD.No.2120 of 2016.)

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the Fair and Decreetal Order in I.A.No.774 of 2014 in O.S.No.338 of 2010 dated 11.06.2015 on the file of the Principal District Munsif, Tirukoilur and thereby allow the revision and pass such other orders as this Court may deem fit in the circumstances of case.

For Petitioner : Mr.N.Suresh

For Respondents : Mr.S.Mukunth

for M/s.Sarvabhauman Associates

for R1, R3 to R7.

R2 - Died (Steps taken)

ORDER

The present Civil Revision Petition is filed as against the fair and decreetal order dated 11.06.2015 in I.A.No.774 of 2014 on the file of the Principal district Munsif, Tirukoilur, thereby dismissing the petition.

2. The petitioner is the plaintiff. The respondents are the defendants.

The suit filed by the petitioner for mandatory injunction to remove the construction put up in the lay out which belongs to the petitioner herein and the same is pending. The petitioner filed a petition for appointment of Advocate Commissioner to inspect the suit property and measure with the help of surveyor. Accordingly, the Advocate Commissioner visited the suit

property and filed his report with a plan.

3. On a perusal of the report and plan E Schedule land mentioned, it is revealed that the E Schedule property alone is the one way to enter in to the petitioner's house, whereas on the perusal of the written statement filed by the respondent, it was revealed that without the knowledge of the petitioner, they put up construction in the E schedule property namely pathway to an extent of two meters length both and 13.8 meters length.

4. Though the Advocate Commissioner visited the suit property and noted down the physical features with the help of surveyor, he failed to note down the construction put up by the plaintiff as well as the defendants in the suit properties.

5. Considering the above facts and circumstances of the case, the Court below is directed to issue a warrant to the Advocate Commissioner to revisit the suit property and note down the construction put up in the entire suit properties by the petitioner as well as the respondents. After receipt of

the Commissioner Report, the parties are at liberty to file their respective objections and thereafter, the suit shall be disposed of within a period of six months. With these directions, this Civil Revision Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

02.03.2021

Index: Yes / No
Speaking order / Non speaking order
kmm
To

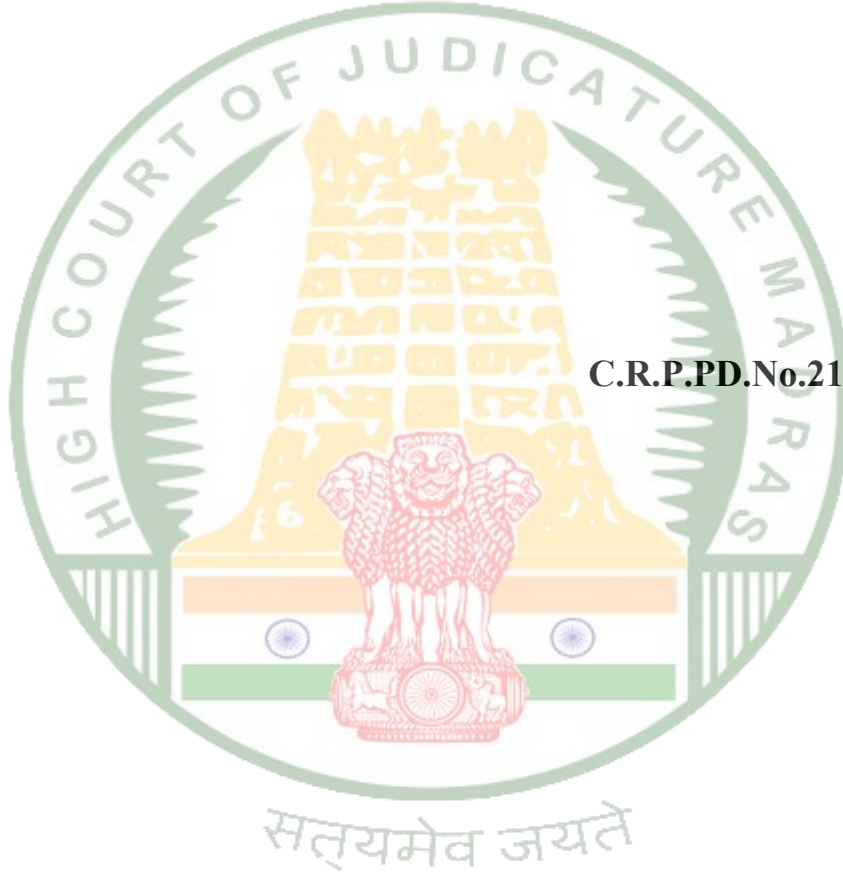
The Principal District Munsif, Tirukoilur



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G.K. ILANTHIRAIYAN, J.

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