

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(N.P.D).No.2167 of 2016
and C.M.P.No.11267 of 2016

Lakshmi

...Petitioner

Vs.

Raman

...Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and final order dated 05.03.2016 made in R.E.A.No.225 of 2014 in R.E.A.No.30 of 2011 in R.E.P.No.197 of 2010 in O.S.No.2423 of 2004 on the file of the Principal District Munsif Court, Salem.

For Petitioner : Mr.D.Sathya

For Respondent : Mr.B.Vasudevan

ORDER

This Civil Revision Petition has been preferred as against the fair and final order dated 05.03.2016 made in R.E.A.No.225 of 2014 in R.E.A.No.30 of 2011 in R.E.P.No.197 of 2010 in O.S.No.2423 of 2004 on the file of the Principal District Munsif Court, Salem, thereby allowed the

petition for appointment of Advocate Commissioner to inspect the suit property and also take into account the Commissioner's report and plan filed in I.A.No2034 of 2004 in O.S.No.2423 of 2004 and also deposition given by the respondent in O.S.No.754 of 2000.

2.The petitioner is the Judgment debtor in O.S.No.2432 of 2004 filed by the respondent herein for permanent injunction. Thereafter the respondent filed execution petition for arrest, for the reason, after the decree the petitioner encroached some part of the suit property and causing disturbance from the respondent's enjoyment of the suit property. While pending the execution petition the respondent also filed a petition in R.E.A.No.30 of 2011 for appointment of advocate commissioner to note down the portions, which has been alleged to have encroached by the petitioner herein. Awaiting for the report from the advocate commissioner, the petitioner sought for a direction to take into account, the earlier advocate commissioner's report filed in the suit in I.A.No.2034 of 2004 in O.S.No.2423 of 2004.

3.On perusal of the counter filed by the petitioner revealed that the petitioner wanted to appoint the District Surveyor along with the advocate commissioner to measure the suit property and fix the boundary stone between the property belong to the petitioner as well as the respondent.

4.Considering the above facts and circumstances of this case, the order passed by the Court below in R.E.A.No.225 of 2014 in R.E.A.No.30 of 2011 in R.E.P.No.197 of 2010 in O.S.No.2423 of 2004 on 05.03.2016 is modified as follows:-

"The Advocate Commissioner, to be appointed by the Court below is directed to bring the combined sketch of Survey No.13/4C2 of Semmanatham Village and the Survey No.28/3E2 of Kadukamarathur Village and to measure the same with the help of the Taluk Surveyor and fix the boundary stones between both the properties and file a report. Further directed to take into account the Advocate Commissioner's report and plan already filed in I.A.No.2034 of 2004 in O.S.No.2423 of 2004 and also the deposition given by the respondent in O.S.No.754 of 2000, while filing the

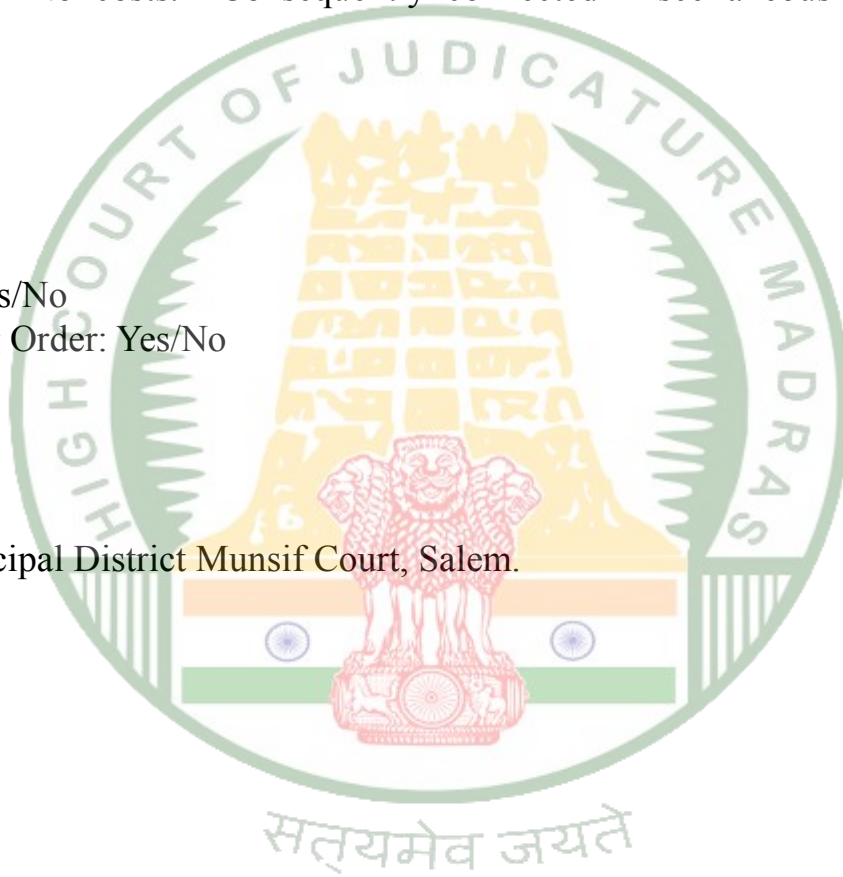
report."

5.With the above modification, this Civil Revision Petition stands allowed. No costs. Consequently connected miscellaneous petition is closed.

18.02.2021

Index: Yes/No
Speaking Order: Yes/No
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To
The Principal District Munsif Court, Salem.

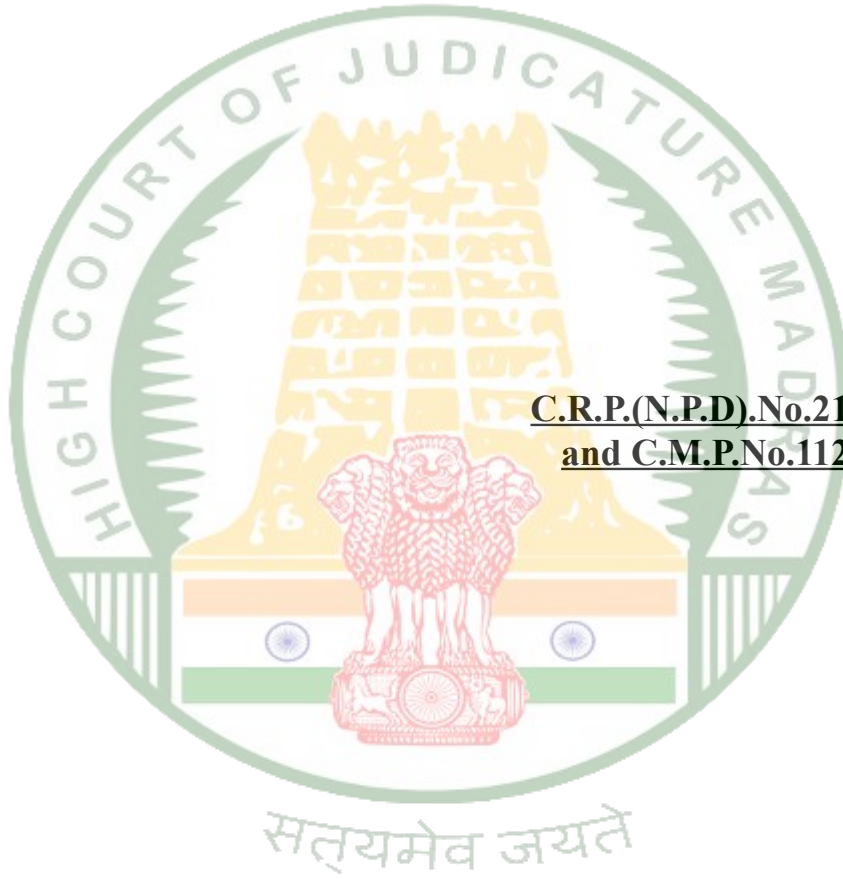


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