

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2021

CORAM

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

CRP.PD.No.2235 of 2018 and
CMP.No.14043 of 2018

Devendiran

..Petitioner

Vs.

1.Sekar
2.Murugan

..Respondents

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India against the order and decretal order passed in IA.No.291 of 2018 in OS.No.324 of 2010 dated 26.04.2018 on the file of District Munsif, Tiruvallur.

For Petitioner : Mr.P.B.Ramanujam

For Respondents : Mr.Jaikumar Ranganathan
for Mr.K.Balaji

ORDER

This Civil Revision Petition is filed against the order and decretal order passed in IA.No.291 of 2018 in OS.No.324 of 2010

dated 26.04.2018 on the file of District Munsif, Tiruvallur, thereby dismissing the petition for appointment of advocate commissioner.

2. The petitioner is the plaintiff and the respondents are the defendants. The petitioner filed suit for declaration and injunction in respect of the suit property admeasuring 799 sq.ft. Comprised in survey No.190/1 situated at Valasaivettkadu Village, Tiruvallur Tauk and District. While pending the suit, that too after examination of witnesses the petitioners filed petition for appointment of advocate commissioner to measure the suit property with the help of surveyor for the reason that the defendants have taken specific stand that the petitioner is having only 1 ½ cents in the suit schedule property admeasuring 600 sq.ft. Therefore, only to assist the court, advocate commissioner may be appointed to measure the property with the help of surveyor and it will clinch the issue. However, the said petition was dismissed on the ground that the petition has been filed only to drag the proceedings and for collection of evidence. Admittedly, the suit is filed for declaration and injunction for the property admeasuring 799 sq.ft. Whereas the respondents have taken specific stand that the suit property only admeasuring 600 sq.ft. If the advocate commissioner is appointed to measure the suit property with the help of surveyor, it would help the court to clinch the issue without any hindrance. It would not amount to collection of evidence.

3. In view of the above, this civil revision petition is allowed and the order passed in IA.No.291 of 2018 in OS.No.324 of 2010 dated 26.04.2018 on the file of District Munsif, Tiruvallur is set aside. On receipt of the advocate commissioner's report, the trial court is directed to dispose of the suit within a period of three months. Consequently, connected miscellaneous petition is closed. No order as to costs.

30.04.2021

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
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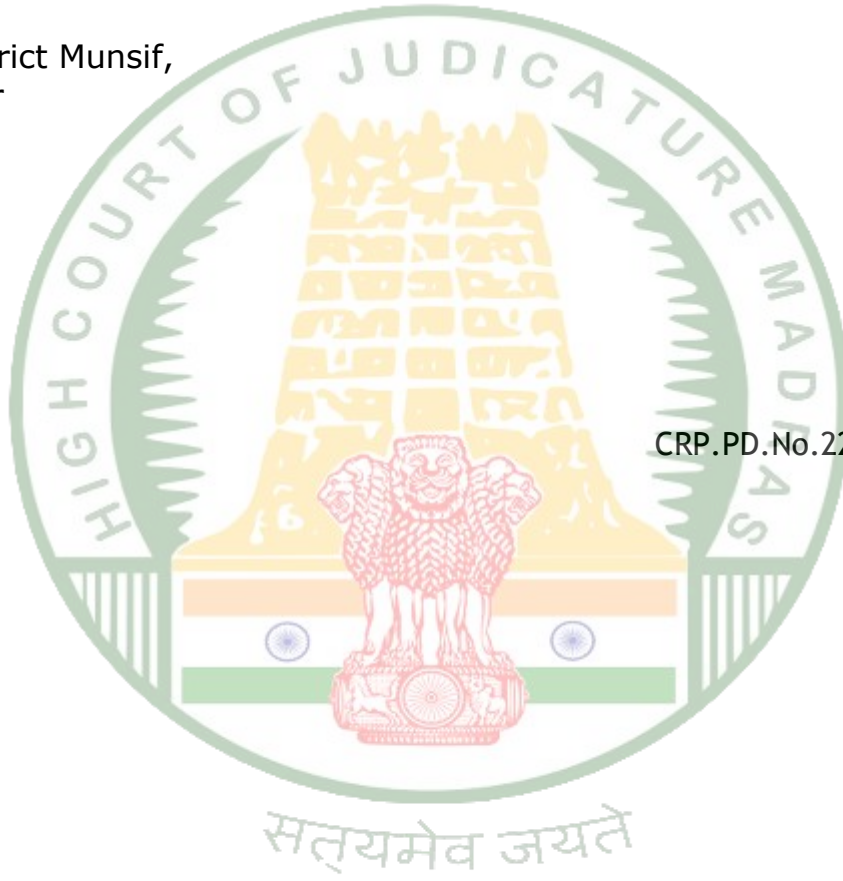
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G.K.ILANTHIRAIYAN,J.

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To

The District Munsif,
Tiruvallur



CRP.PD.No.2235 of 2018

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