

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2021

CORAM:

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

CRP (PD) No.2239 of 2018

and

CMP.No.14057 of 2018

Muthusamy

... Petitioner

Vs.

1. Muthu Gounder @ Muthusamy

2. Nallaiyan

3. Palaniappan

4. District Collector,
Ernapuram,
Tiruchengode Taluk.

5. District Revenue Officer,
Namakkal.

6. Revenue Divisional Officer,
Tiruchengode Town.

7. The Tahsildar
Paramathi Velur Taluk,
Padamudipalayam,
Velur Post,
Paramathi Velue Taluk.

... Respondents

Prayer : Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decretal order passed by the District Munsif Court at Paramathi, dated 13.04.2018 in I.A.No.814 of 2017 in O.S.No.37 of 2009.

For Petitioner : Mr.P.Valliappan

For Respondents : Mr.R.Darshan
: for Mrs.R.Renukadevi
(for R-1 to R-3)
: Dr.S.Suriya
Government Advocate (CS)
(for R-4 to R7)

ORDER

This Civil Revision Petition is directed against the fair and decretal order passed in I.A.No.814 of 2017 in O.S.No.37 of 2009 dated 13.04.2018 on the file of the learned District Munsif, Paramathi, thereby dismissing the petition for appointment of Advocate Commissioner.

2. The petitioner is the plaintiff and the respondents are the defendants. The petitioner filed the suit for declaration to declare that the petitioner is the absolute owner of the suit property ad-measuring Ac.5.05 in S.No.335 of Maniyanoor Village, Paramathy Velur Taluk and for mandatory injunction to rectify the mistake in respect of the extent of the suit property in S.No.335/2 in the revenue records such as Chitta, Adangal, A Register, F.M.B, etc. The suit was filed in the year 2009, when the suit was in the stage cross examination of the defendants, the present petition has been filed by the petitioner for appointment of

Advocate Commissioner to inspect the suit property and to survey the lands in all sub-divisions in S.No.335 of Maniyanoor Village, Paramathy Velur Taluk. It is seen that the respondents 1 to 3 already filed a suit in O.S.No.163 of 2008 with regards to pathway dispute in the property partly situated in the present suit property. In the said suit the Advocate Commissioner was already appointed and he inspected the suit property and also filed his report. In fact, both the suits were directed for joint trial. At that juncture, the petitioner filed the present petition for appointment of Advocate Commissioner to survey the suit property.

3. On a perusal of the plaint, it reveals that the petitioner prayed for declaration to declare that the petitioner is the absolute owner of the suit property ad-measuring Ac.5.05 in S.No.335 of Maniyanoor Village, Paramathy Velur Taluk and prayed for mandatory injunction to rectify the mistake in respect of the extent of the suit property in S.No.335/2 in the revenue records such as Chitta, Adangal, A Register, F.M.B, etc. Only after declaration of title in favour of the plaintiff in respect of the suit property, the rectification of the revenue records would arise. Therefore, the Advocate Commissioner cannot be appointed to survey the suit property and it is premature. That apart, already the Advocate

Commissioner was appointed in O.S.No.163 of 2008 and the Advocate Commissioner's report is very much available in the Court records. In fact, both the suits filed by the petitioner as well as the respondents 1 to 3 were ordered for joint trial. Therefore, this Court finds no infirmity or illegality in the order passed by the trial Court.

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

21.06.2021

kv

Index : Yes/No

Internet : Yes/No

To

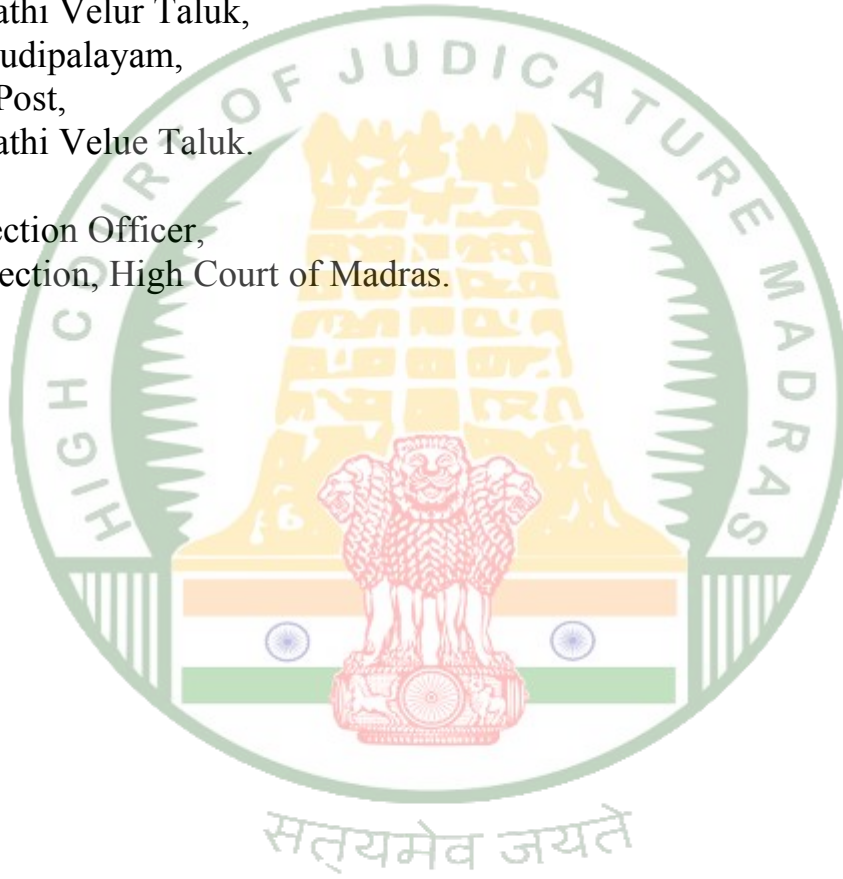
1. The District Munsif, Paramathi.

2. The District Collector,
Ernapuram,
Tiruchengode Taluk.

3. The District Revenue Officer,
Namakkal.

4. The Revenue Divisional Officer,
Tiruchengode Town.

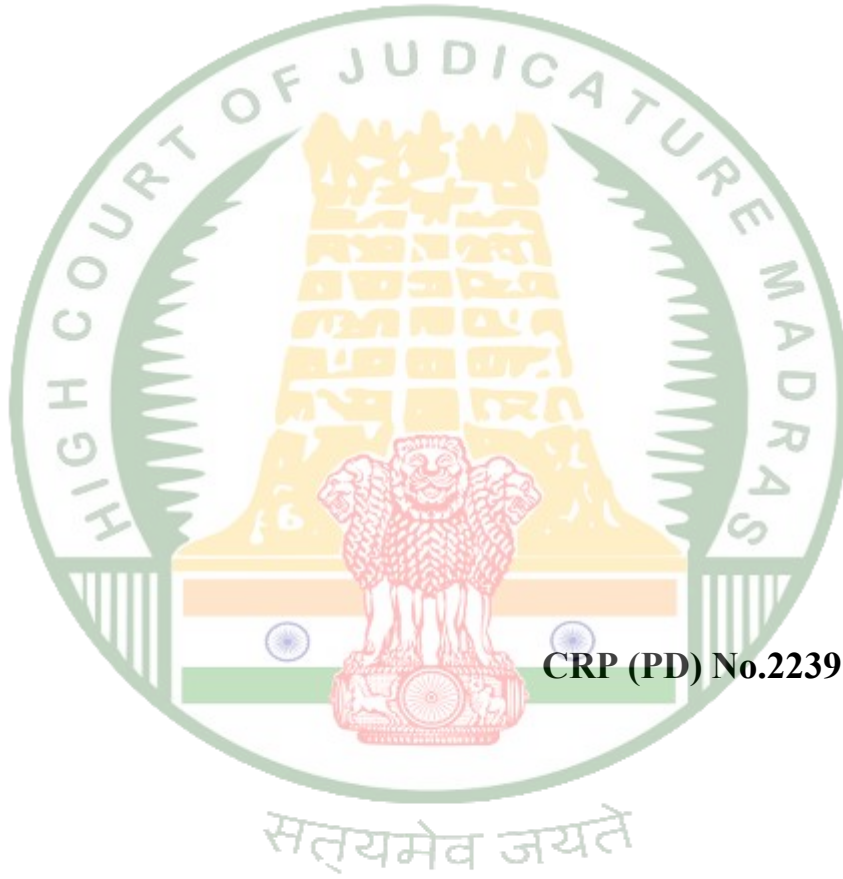
5. The Tahsildar
Paramathi Velur Taluk,
Padamudipalayam,
Velur Post,
Paramathi Velue Taluk.
6. The Section Officer,
V.R. Section, High Court of Madras.



WEB COPY

G.K.ILANTHIRAIYAN,J.

kv



CRP (PD) No.2239 of 2018

WEB COPY

21.06.2021



WEB COPY