

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2021

CORAM

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

C.R.P.(NPD)No.2340 of 2018
and C.M.P.No.14500 of 2018

1. K.Amalraj
2. John Manohar

... Petitioners

Vs.

1. N.K.Ganesan
2. The Sub-Registrar,
Pallavaram,
Chrompet,
Chennai – 600 044.

... Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the order and decretal order dated 05.03.2018 in I.A.No.140 of 2016 in A.S.No.41 of 2011 on the file of the Subordinate Judge, Tambaram.

For Petitioners : Mr.A.L.Ganthimathi

For Respondents

For R1 : Mr.AR.Balaji

For Mr.B.Vijay

For R2 : Dr.S.Suriya

Government Advocate (CS)

ORDER

This Civil Revision Petition is directed as against the fair and decreetal order dated 05.03.2018 passed by the learned Subordinate Judge, Tambaram, in I.A.No.140 of 2016 in A.S.No.41 of 2011, thereby dismissing the petition for seeking appointment of advocate commissioner.

2. The petitioners are the defendants and the first respondent is the plaintiff. The first respondent filed suit in O.S.No.92 of 2006 for declaration and recovery of possession after removal of construction put up in the suit property. While pending the suit, the first respondent filed petition seeking appointment of Advocate Commissioner to inspect the suit property and to measure the suit property with the help of Taluk Surveyor. Accordingly, the Advocate Commissioner was appointed and he inspected the property and filed his report. In fact, the Surveyor also filed his report and all the documents were marked as Ex.C.1 to Ex.C.3. Thereafter the suit was decreed in favour of the first respondent by the judgment and decree dated 04.01.2011. Aggrieved by the same, the petitioners herein filed an appeal suit in A.S.No.41 of 2011.

3. While pending the appeal suit, after the period of five years, the petitioners filed this present petition in I.A.No.140 of 2016 for seeking appointment of Advocate Commissioner to note down the physical features of the suit property with the help of taluk Surveyor. The said petition was filed by the petitioners for the reason that the earlier Advocate Commissioner did not note down the exact measurement of the suit property as such, he sought for appointment of Advocate Commissioner. The appellate Court dismissed the said petition as against which the present Civil Revision Petition.

4. On perusal of records, the petitioners did not file any objection to the earlier Advocate Commissioner's report before the trial Court. Therefore, without even filing any objection to the earlier Advocate Commissioner's report, in the appeal suit, that too after the period of five years on the file of the appeal suit, the present petition has been filed. Therefore, the appellate Court rightly dismissed the petition and this Court finds no illegality or infirmity in the order passed by the Court below.

5. Accordingly, this Civil Revision Petition stands dismissed
Consequently, connected miscellaneous petition is closed. There shall be no
order as to costs.

29.06.2021

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

rts



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To

1. The Subordinate Judge,
Tambaram
2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.

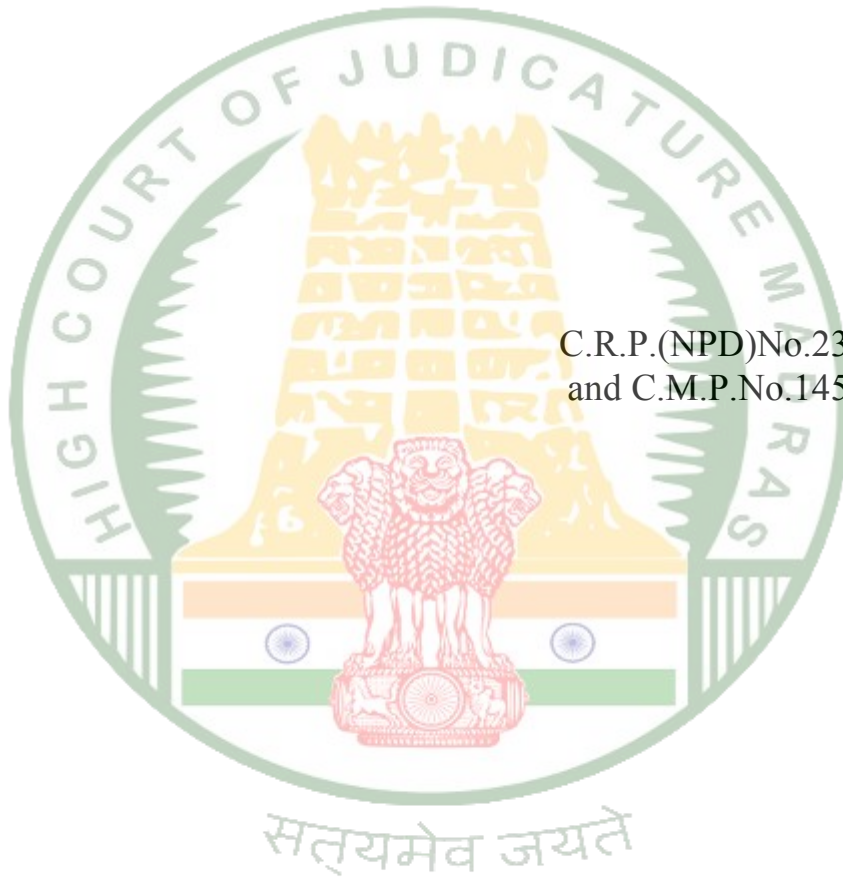


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G.K.ILANTHIRAIYAN, J.

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