

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2021

CORAM

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

CRP.PD.No.3487 of 2016

and

CMP.No.17762 of 2016

S.Kannan

..Petitioner

Vs.

1.M.Tamilarasi

2.M.Karthi

..Respondents

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India praying to set aside the order passed on 26.10.2016 by the Additional District Munsif Court, Poonamallee in IA.No.782 of 2016 in OS.No.318 of 2016 and allow this revision petition with cost.

For Petitioner : Mr.S.Janarthanan

For Respondents : Mr.V.Veluchamy

ORDER

This Civil Revision Petition is filed against the order passed on 26.10.2016 by the Additional District Munsif Court, Poonamallee in

IA.No.782 of 2016 in OS.No.318 of 2016 thereby allowed the petition for appointment of Advocate Commissioner.

2. The petitioner is the plaintiff. He filed suit for injunction as against the respondents herein. While pending the suit, the respondents filed petition for appointment of Advocate Commissioner for the reason that the first respondent already filed suit in OS.No.141 of 2016 for specific performance in respect of the property admeasuring 3750 square feet comprised in Survey No.239/1, Ramapuram Village, Maduravoil Taluk, Tiruvallur District. While pending the said suit, the present suit has been filed by the petitioner herein for injunction. The interim injunction petition was dismissed. Thereafter, the petitioner started construction in the suit property. When the petitioner has no title over the property, only on the strength of the pendency of the suit for injunction, he started construction and as such the respondent herein lodged complaint and filed petition for appointment of Advocate Commissioner to note down the existing physical features of the suit property and note down the construction put up by the petitioner herein.

3. The learned counsel for the petitioner submitted that the suit was filed by the petitioner for interim injunction. The petitioner is the absolute owner of the suit property claiming through his grand

mother. While being so, the respondent filed petition for appointment of Advocate Commissioner and the same was allowed.

4. On perusal of the records shows that the first respondent herein already filed suit for specific performance in OS.No.141 of 2016 and thereafter the petitioner filed suit for injunction in respect of the part of the property. Now both the suits have been clubbed together and pending for trial on the file of the III Additional District Munsif Court, Poonamallee. Therefore, this Court finds no irregularity or infirmity in the order passed by the court below.

5. Accordingly, this civil revision petition is dismissed. Consequently, connected miscellaneous petition is closed. No order as to costs.

27.01.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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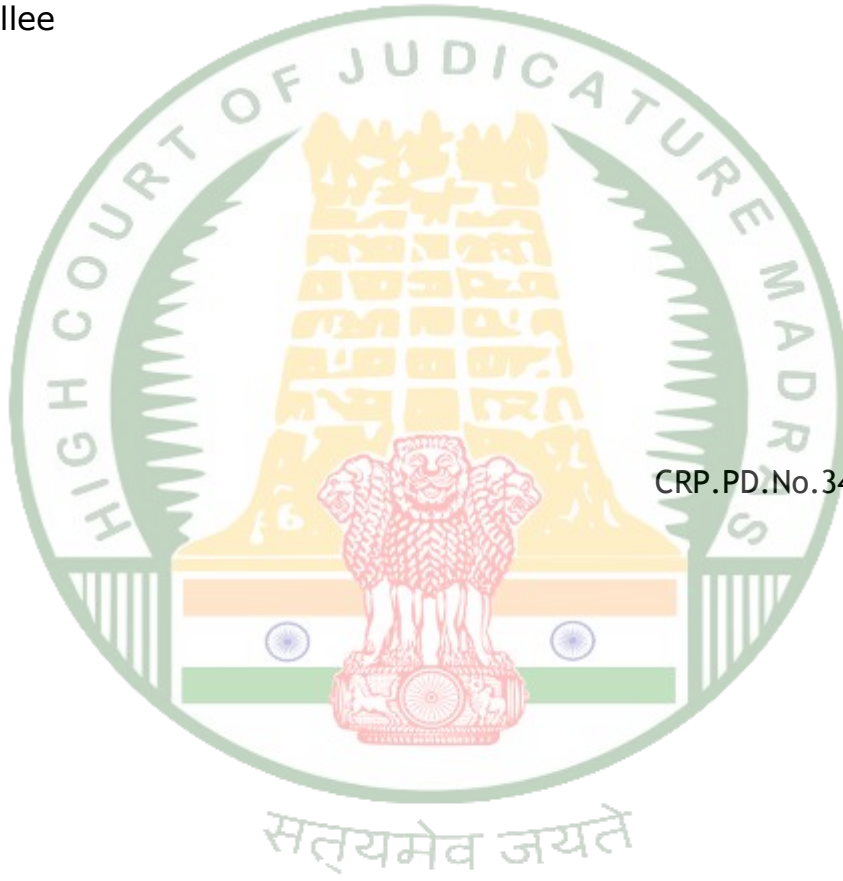
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G.K.ILANTHIRAIYAN,J.

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To

The Additional District Munsif Court,
Poonamallee



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