

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(PD) No.2385 of 2018
and C.M.P.No.14730 of 2018

1.S.Sivan @ Sivakumar
2.S.Shanmuga Sundaram
3.S.Amuthavalli
4.S.Selvaraj
5.S.Parasuraman
6.S.Mohanraj
7.D.Parvathi
8.L.Sampathkumar
9.K.Santhosh Kumar

.... Petitioners

1.V.Subburaj
2.V.Singaravelan
3.V.Ganesan
4.J.Mythily
5.V.Kanthalakshmi
6.S.Muthuvel
7.M.Kanagarathinam
8.K.Pounmani
9.L.Prema
10.J.Madhankumar
11.J.Vignesh Kumar
12.K.Maheshwari

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the Fair and Final Order dated 21.02.2018 passed by the learned II Additional District Judge, Tiruppur in I.A.No.1289 of 2017 in O.S.No.316 of 2013.

For Petitioners : Mr.L.Mouli

For Respondents : R1 to R5, R10, R11
Mr.N.Umapathi - No Appearance
R6, R7 to R9, R12 Notice Served

ORDER

This Civil Revision Petition is filed against the Fair and Final Order dated 21.02.2018 passed by the learned II Additional District Judge, Tiruppur in I.A.No.1289 of 2017 in O.S.No.316 of 2013, thereby dismissing the application seeking appointment of an Advocate Commissioner.

2. The petitioners are the plaintiffs and the respondents are the defendants in the said suit. The petitioners filed the said suit for partition.

3. Pending suit, the petitioners filed an application seeking appointment of an Advocate Commissioner to measure the suit schedule property, which was acquired to widen the road by the National Highways Department and to find out the acquired portion of the suit property so as to amend the plaint accordingly. It is also revealed that when the petitioners tried to measure the suit property with the help of surveyor, the respondents refused to permit them.

4. The Court below dismissed the application only for the reason that the appointment of an Advocate Commissioner is nothing but collection of evidence. In the present case, the suit is filed for partition. Pending suit, some of the portion of the property was acquired by the National Highways Department to widen the road. Therefore, the petitioners are required to amend the suit property with regard to that portion acquired.

5. Therefore, the Order dated 21.02.2018 passed by the learned II Additional District Judge, Tiruppur in I.A.No.1289 of 2017 in O.S.No.316

of 2013 is set aside. The Court below is directed to appoint an Advocate Commissioner to measure the suit property with the help of surveyor in respect of the portion which was acquired by the National Highways Department.

6. Accordingly, this Civil Revision Petition is allowed. No order as to costs. Consequently, the connected miscellaneous petition is closed.

08.07.2021

Internet: Yes
Index: Yes/No
Speaking/Non speaking order
rna

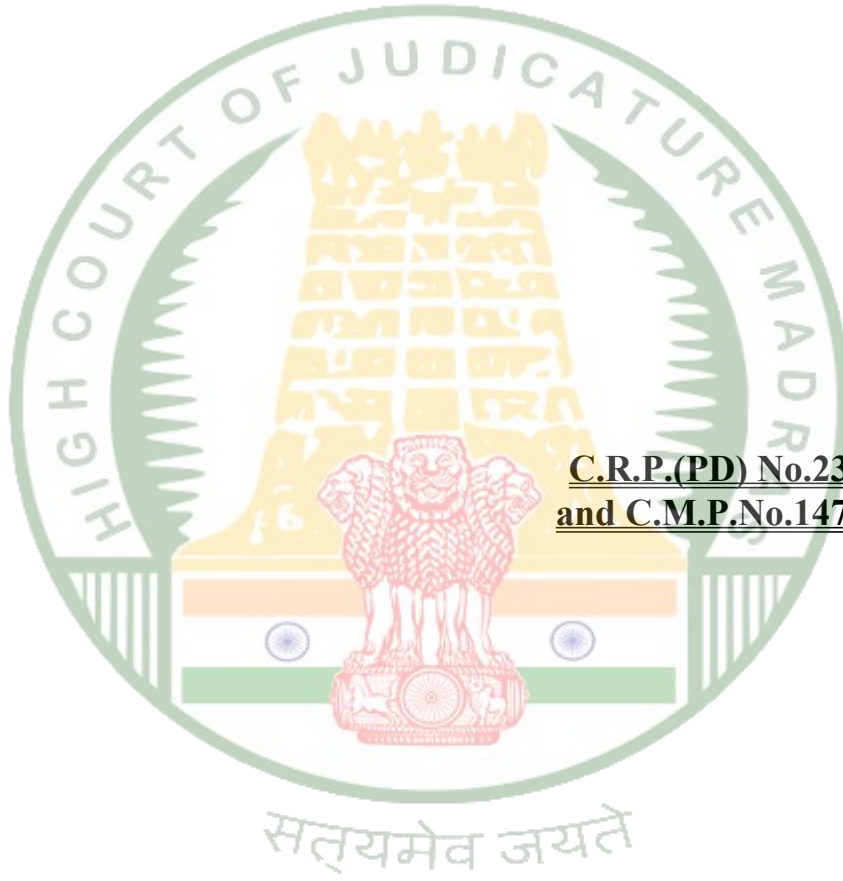
To

The 2nd Additional District Judge,
Tiruppur.

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G.K.ILANTHIRAIYAN. J,

rna



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