

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2021

CORAM

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

CRP.PD.No.284 of 2018

and

CMP.No.1560 of 2018

Shanthi Nagar Residents Association,
Represented by its President,
K.A.V.Ramakrishnan,
Santhi Nagar,
Chrompet,
Chennai – 600 044

..Petitioner

Vs.

S.Nahib Khan
Represented by his Power Agent
K.Abdul Aslam,
No.74/64, LNK Road, Chempauk,
Triplicane, Chennai-5

..Respondent

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decretal order dated 24.10.2017 passed in IA.No.453 of 2016 in OS.No.39 of 2012 on the file of learned Subordinate Judge, Tambaram

For Petitioner : Mr.M.Babu Muthu Meeran

For Respondent : Mr.M.L.Ramesh

ORDER

This civil revision petition is filed against the fair and decretal order dated 24.10.2017 passed in IA.No.453 of 2016 in OS.No.39 of 2012 on the file of learned Subordinate Judge, Tambaram, thereby dismissing the petition for appointment of advocate commissioner.

2. The petitioner is the second defendant and the respondent is the plaintiff. The respondent filed suit for permanent injunction in respect of the property comprised in TS.No.17, Ward D, Block No.13 corresponding to Old Taluk Suvey No.453/2A1A11 and 454/1A1A equivalent to preceding survey No.453/2 and 454/1 situated at Jameen Pallavaram Village, Tambaram, Kancheepuram District. While pending the suit, the petitioner filed application for appointment of advocate commissioner to inspect the suit property to note down its physical features. The contention of the petitioner is that the respondent who is a stranger to the suit property created fake

document as if the property has been settled to him by settlement deed dated 20.07.2007 vide document No.4013 of 2007. On the strength of the said settlement deed, he also obtained patta and he was granted patta. Aggrieved by the same, the petitioner filed petition before the District Revenue Officer, Kancheepuram seeking cancellation of bogus patta. After enquiry and also examining the relevant documents and heard the parties concerned, the Commissioner of Pallavaram Municipality by order dated 15.06.2012, cancelled the patta issued in favour of the respondent.

3. The records also revealed that layout plan approved by the Pallavaram Municipal Corporation and it was shown as OSR lands for public purpose. Therefore, the respondent has no right over the suit schedule property and cancelled the patta. Suppressing the above facts, the respondent attempted to trespass into the suit property with illegal means. Thereafter, the respondent also filed suit for permanent injunction in respect of suit property. Now the suit property has been converted into park as Pallavaram Municipality Park, Shanthi Nagar.

4. The learned counsel for the petitioner also produced photographs to show that the suit property is used for public purpose

and converted into park. That apart, now the Commissioner of Pallavaram Municipality has also been impleaded as party to the suit. The respondent filed the present suit for permanent injunction in respect of the suit property. He has to prove his case by let in evidence. The petitioner is being defendant, need not to disprove the case of the respondent herein.

5. It is also seen from the photographs produced by the petitioner that the suit property has now been converted as park and used for public purpose. That apart, the Commissioner of Pallavaram Municipality has been added as party to the suit and the Commissioner will take care of the interest of the suit property along with the petitioner herein. Therefore, no need to appoint any advocate commissioner and the petitioner can very well let in evidence by marking those documents which are referred above during the trial. Therefore, the court below rightly dismissed the petition for appointment of advocate commissioner and this Court finds no infirmity or irregularity in the order passed by the court below.

6. Accordingly, this civil revision petition is dismissed. However, the trial court is directed to dispose of the suit within a period of six months from the date of receipt of copy of this order.

Consequently, connected miscellaneous petition is closed. No order as to costs.

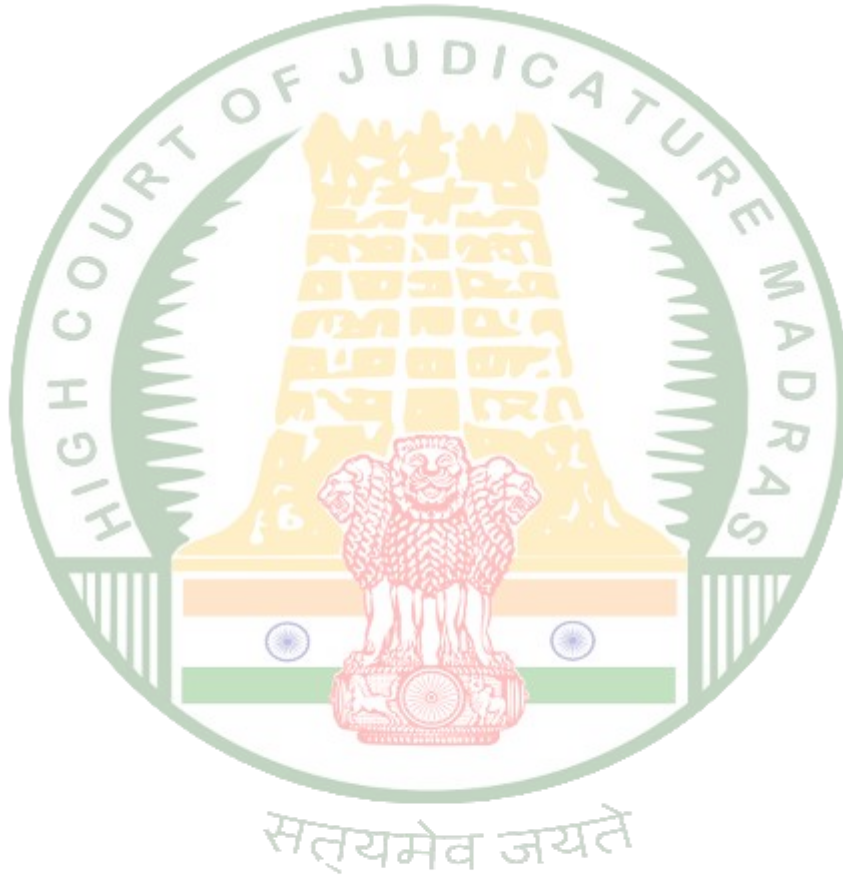
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Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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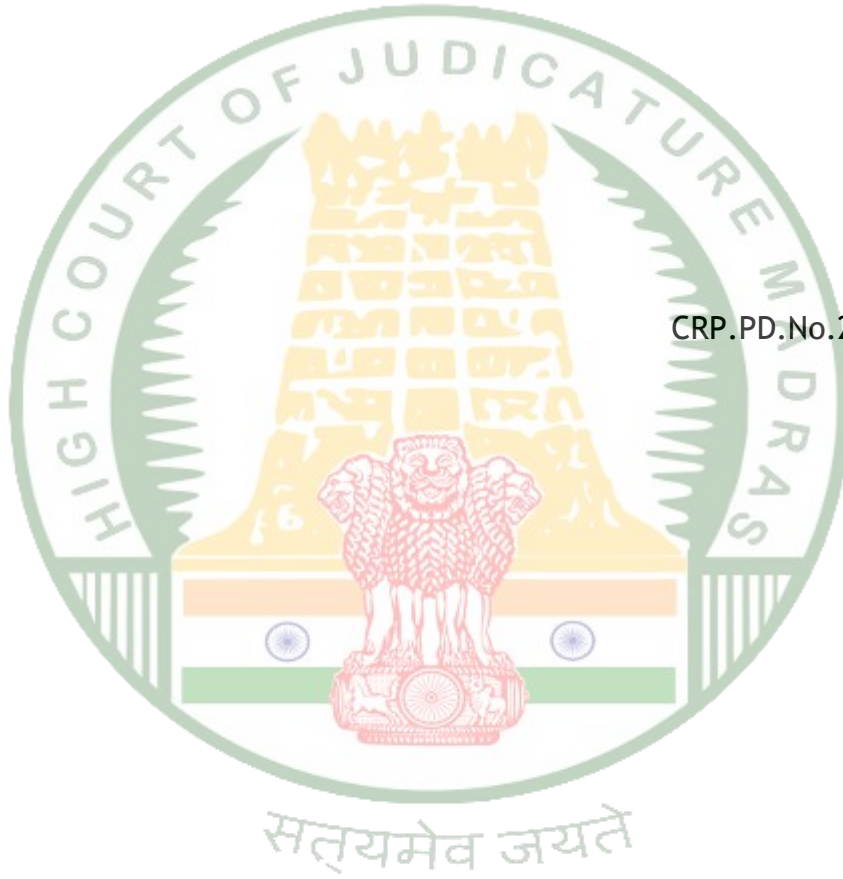
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G.K.ILANTHIRAIYAN,J.

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To

The Subordinate Judge,
Tambaram



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