

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2021

CORAM

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

CRP.PD.No.307 of 2018
and CMP.No.1664 of 2018

Pichandi

..Petitioner

Vs.

Sadagoppan(died)

1.Pattusamy

2.Meera

3.Rajalakshmi @ Patturoja

..Respondents

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decretal order dated 06.12.2017 passed in IA.No.1146 of 2014 in OS.No.133 of 2011 on the file of the Additional District Munsif Court, Cheyyar.

For Petitioner : Mr.P.Mani

For Respondents : No Appearance

ORDER

This civil revision petition is filed against the fair and decretal order dated 06.12.2017 passed in IA.No.1146 of 2014 in OS.No.133 of 2011 on the file of the Additional District Munsif Court, Cheyyar, thereby dismissing the petition for appointment of Advocate Commissioner.

2. The petitioner is the plaintiff and the respondents are the defendants. The petitioner filed suit for declaration and mandatory injunction to remove the pipeline which is laid in the suit property by the respondents. While pending the suit, the petitioner filed application for appointment of Advocate Commissioner. Initially, the court below appointed an Advocate Commissioner to inspect the suit property and also measure the same with the help of Surveyor. While the Advocate Commissioner inspected the suit property, he found that there was sugarcane in the suit property and as such he could not able to measure the suit property. Therefore, he filed memo to that extent dated 26.09.2017. After receipt of the memo, the court below dismissed the appointment of Advocate Commissioner application for the reason that this Court directed the court below to complete the trial of the cases those pending for more than five years.

3. On perusal of the written statement revealed that the respondents also categorically mentioned that if the suit property is measured with the help of Surveyor, it would be proper to decide the issue raised by the petitioner. In the interest of justice, appointment of Advocate Commissioner is necessary and it would not cause any prejudice to the respondents herein.

4. Considering the above facts and circumstances, this civil revision petition is allowed and the order dated 06.12.2017 passed in IA.No.1146 of 2014 in OS.No.133 of 2011 on the file of the Additional District Munsif Court, Cheyyar is set aside. The court below is directed to re-issue warrant to the same Advocate Commissioner and the Advocate Commissioner is directed to inspect the suit property and measure the same with the help of Surveyor and file report within a period of four weeks from the date of receipt of warrant from the court below. On receipt of the report, the trial court is directed to dispose of the suit within a period of six months thereafter. Consequently, connected miscellaneous petition is closed. No order as to costs.

08.04.2021

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
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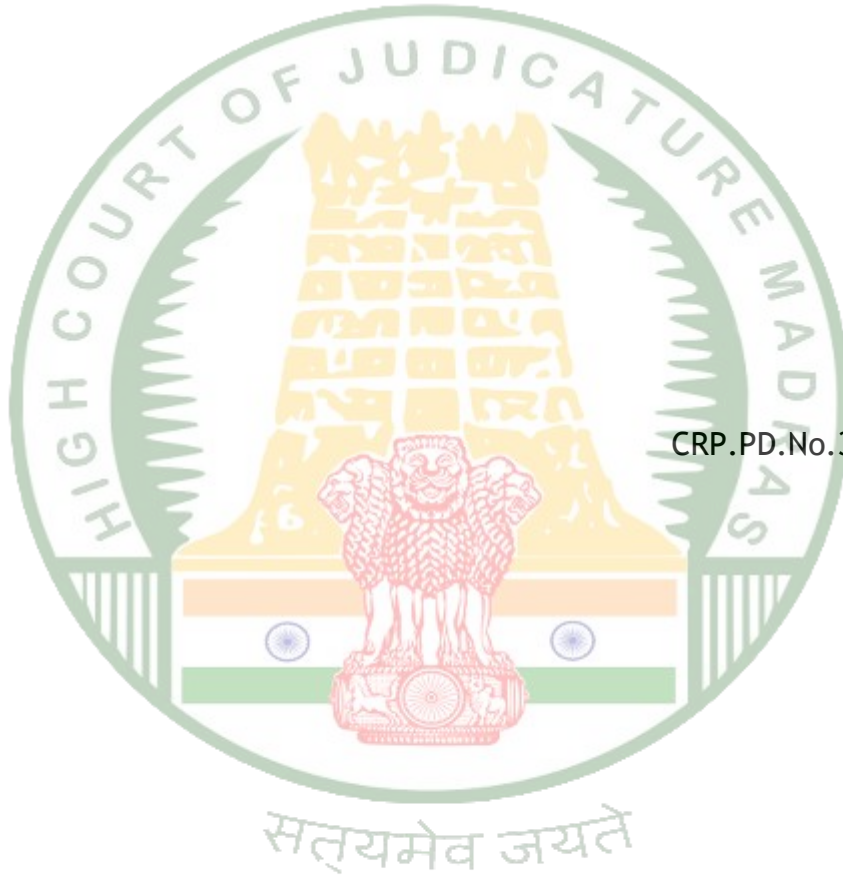
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G.K.ILANTHIRAIYAN,J.

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To

The Additional District Munsif Court,
Cheyyar



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