

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2021

CORAM:

**THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN**

**CRP (PD).No.865 of 2018  
and  
CMP.No.4744 of 2018**

T.R.Muthukumar

... Petitioner

Vs.

1. Saraswathy
2. Jayanthi
3. K.Kalivanai
4. K.Gomathy
5. K.Saravanan

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and final order dated 17.11.2017 passed by the learned District Munsif, Sathiyamangalam in I.A.No.1290 of 2016 in O.S.No.225 of 2016.

For Petitioner : Mr.Sriram for  
Mr.L.Mouli

For Respondents : Notice Served (No Appearance)  
(for R-1 to R-3)  
: Not Ready in Notice  
(No Appearance) (for R4 & R-5)

## ORDER

This Civil Revision Petition is filed as against the fair and decretal order passed in I.A.No.1290 of 2016 in O.S.No.225 of 2016 dated 17.11.2017 on the file of the learned District Munsif, Sathiyamangalam, thereby dismissing the petition seeking appointment of Advocate Commissioner to measure the suit property with the help of Taluk Surveyor and fix the northern side boundary of the petition mentioned property and to note down the physical features of the petition mentioned property.

2. The petitioner is plaintiff and the respondents are the defendants. The petitioner filed a suit for permanent injunction and to fix the northern side boundary of the suit property. While pending the suit, the petitioner filed a petition seeking appointment of Advocate Commissioner to measure the suit property with the help of Taluk Surveyor and fix the northern side boundary of the petition mentioned property and to note down the physical features of the petition mentioned property. The Court below rightly dismissed the petition for the reason that the interim relief and the main

relief applied in the suit are one and the same. If the Advocate Commissioner fixes the northern side boundary of the suit property, it would amount to proving the suit in favour of the petitioner. The petitioner has to get in evidence to prove his case to fix the northern side boundary of the petition premises. That apart, the suit is filed for permanent injunction and as such, the Advocate Commissioner cannot be appointed, since it would amount to collection of evidence. Therefore, this Court finds no infirmity or illegality in the order passed by the Court below.

3. Accordingly, this Civil Revision Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

28.07.2021

Speaking/Non-speaking order

Index : Yes/No

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To

1. The District Munsif, Sankarai.

2. The Section Officer,

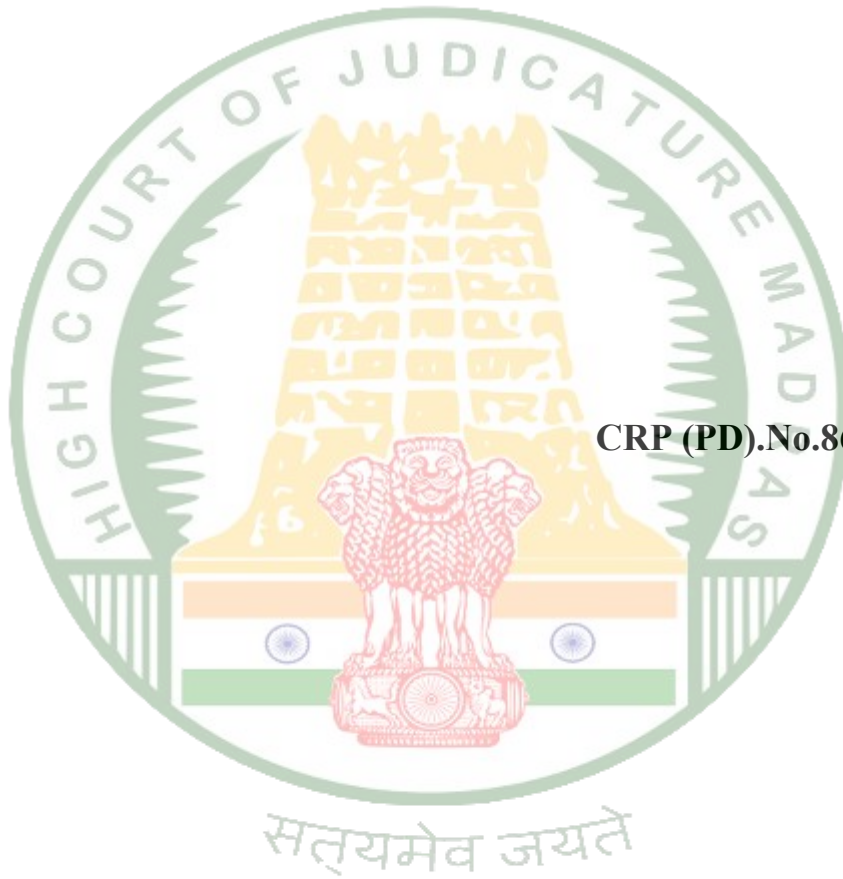
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V.R. Section, High Court of Madras.

**G.K.ILANTHIRAIYAN,J.**

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