

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2021

CORAM

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

CRP.PD.No.270 of 2014

and

MP.No.1 of 2014

Subbarayan

..Petitioner

Vs.

1.Chinna Kounder

2.Janakaraj

..Respondents

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India against the docket order in IA.No.798 of 2012 in OS.No.151 of 2012 dated 04.01.2013 on the file of the learned Principal District Munsif, Rasipuram.

For Petitioners

: M/s.Aiswarya
for Mr.N.Suresh

For Respondents

: Mr.B.Jawahar

ORDER

The present Civil Revision Petition is arising out of docket order passed in IA.No.798 of 2012 in OS.No.151 of 2012 dated 04.01.2013 on the file of the learned Principal District Munsif, Rasipuram thereby allowing the petition for appointment of Advocate Commissioner.

2. The petitioner is the defendant in the suit filed by the respondents herein for permanent injunction and mandatory injunction. According to the respondents, some of the suit property were encroached by the petitioner and prayed for recovery of possession.

3. The learned counsel for the petitioner would submit that in respect of the very same property, the petitioner already filed suit for declaration in OS.No.91 of 2011 as against the respondents herein. In the said suit, the respondents filed application for appointment of Advocate Commissioner and the same was dismissed. Aggrieved by the same, the respondents preferred CRP.PD.No.1457 of 2012 and the same was also dismissed by this Court dated 24.08.2012. When the earlier request was rejected and confirmed by this Court, again the present suit has been filed in which respondents sought for appointment of Advocate Commissioner.

4. On perusal of records, the respondents filed suit for

mandatory injunction for taking possession of the suit property. Though the respondents already filed petition for appointment of Advocate Commissioner in the suit filed by the petitioner in OS.No.91 of 2011, the respondents prayed to measure the suit property as well as the property belong to them. Therefore, the trial court dismissed the same. Here, the respondents filed the suit alleging that some of the portions now occupied by the petitioner herein. Therefore, it is necessary to note down the physical features of the suit property. In fact, on perusal of the written statement filed by the petitioner revealed that the petitioner took a specific stand that purposefully the respondents have not filed any rough plan showing physical features of the lands of the parties.

5. Therefore, the court below rightly appointed Advocate Commissioner to note down the physical features of the suit property and measure the suit property with the help of Village Administrative Officer. As such this Court finds no irregularity or infirmity in the order passed by the court below, and the civil revision petition is liable to be dismissed.

6. Accordingly, this civil revision petition is dismissed. Considering that the suit is of the year 2012, the trial court is directed to complete the trial within a period of nine months from the date of

receipt of copy of this order. Consequently, connected miscellaneous petition is closed. No order as to costs.

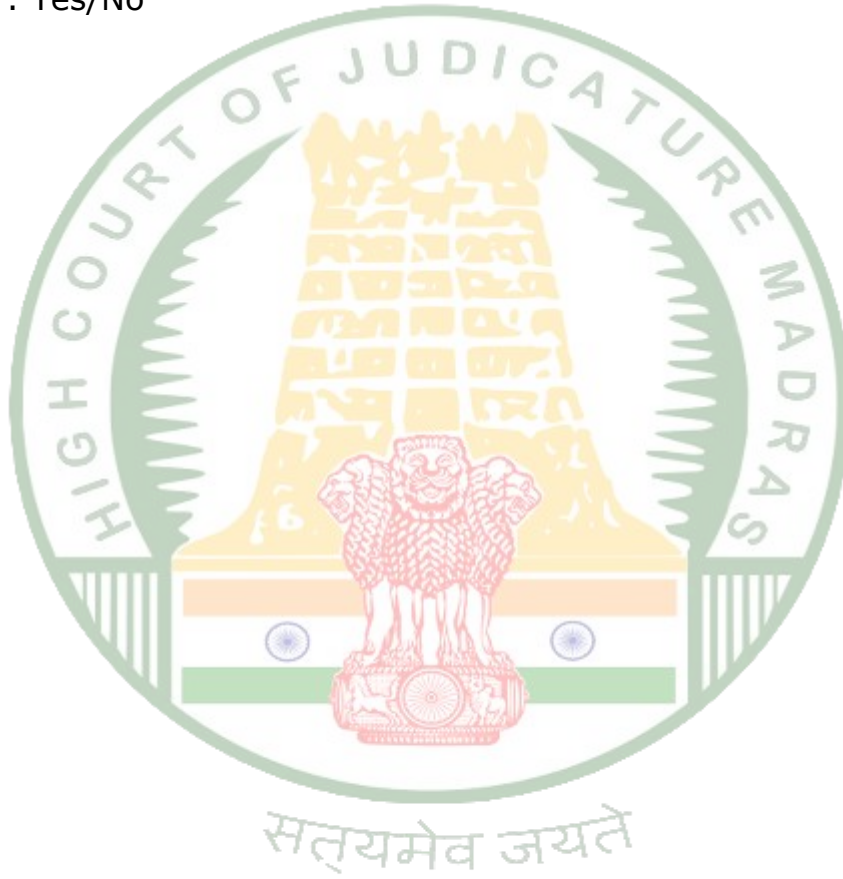
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Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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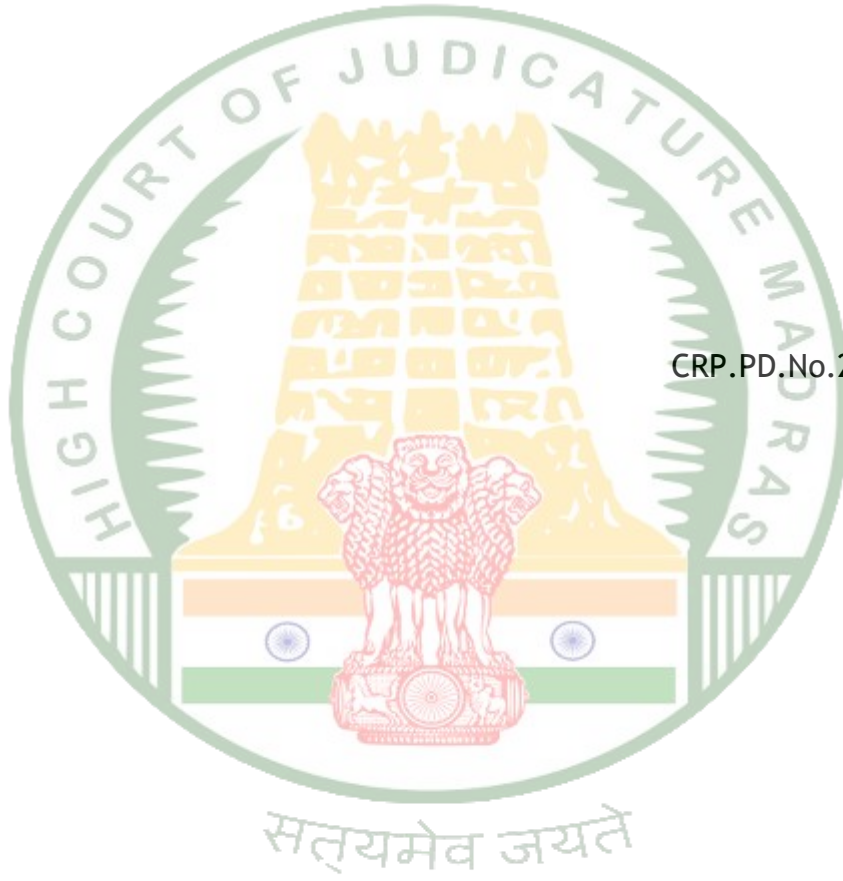
The Principal District Munsif,
Rasipuram.



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G.K.ILANTHIRAIYAN,J.

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