

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2021

CORAM

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

CRP.PD.No.2243 of 2017

and

CMP.No.10618 of 2017

P.Sundaram

... Petitioner

Vs.

1. Ponni

2. Durai

... Respondents

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, to allow the above CRP by setting aside the fair and decretal order dated 22.02.2017 passed in I.A.No.169 of 2016 in O.S.No.02 of 2004 on the file of the Court of the District Munsif-cum-Judicial Magistrate, Thirukkalukundram.

For Petitioner : Mr.Govi Ganesan

For Respondents : Mr.M.R.Khapali

ORDER

This Civil Revision Petition is directed as against the fair and decretal order passed in I.A.No.169 of 2016 in O.S.No.02 of 2004 dated 22.02.2017 on the file of the learned District Munsif-cum-Judicial Magistrate, Thirukkalukundram, thereby, dismissing petition seeking appointment of Advocate Commissioner.

2. The learned counsel for the petitioner submitted that the sole petitioner died and they have taken steps to implead the Legal Heirs of the petitioner/deceased.

3. However, on a perusal of the records, it reveals that the deceased/petitioner is the defendant in the suit filed by the respondents for permanent injunction. When the suit was posted for cross examination of P.W.1, the deceased/petitioner filed a petition for appointment of Advocate Commissioner to inspect the suit property to note down the physical features. Admittedly, it is a suit for permanent injunction and as such, the appointment of Advocate Commissioner is nothing but gathering evidence. Therefore, the Court below rightly dismissed the petition and as such, this Court finds no infirmity or illegality in the order passed by the Court below.

4. Accordingly, this Civil Revision Petition is dismissed. However, the Legal Heirs of the deceased/petitioner are at liberty to file a petition to implead themselves in the main suit pending before the Court below. Consequently, the connected Miscellaneous Petition is closed. No costs.

18.03.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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To

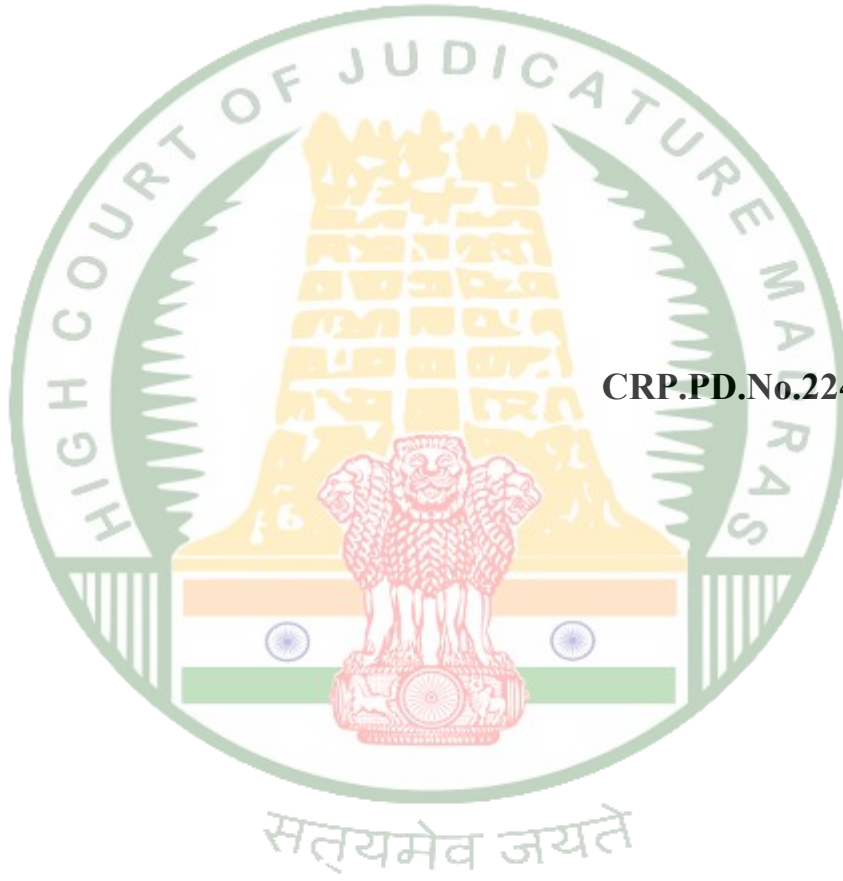
1. The District Munsif-cum-Judicial Magistrate,
Thirukkalukundram.
2. The Section Officer,
V.R.Section, High Court of Madras.

सत्यमेव जयते

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G.K.ILANTHIRAIYAN,J.

Kv



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