

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2021

CORAM:

THE HONOURABLE Mr. JUSTICE G.K. ILANTHIRAIYAN

**C.R.P.PD.No.3216 of 2017
and
CMP.No.15089 of 2017**

1. Asaithambi
2. Satheeshkumar ... Petitioners.

-Vs-

1. Vaithilingam
2. Seerangayee
3. Purushothaman ... Respondents

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal orders dated 10.07.2017 passed in I.A.No.462 of 2017 in O.S.No. 102 of 2016 on the file of the District Munsif Court, Mettur.

For Petitioners : Mr.P.Mani
For Respondent : Mr.R.Guruprasad

ORDER

The present Civil Revision Petition is directed as against the fair and decreetal order dated 10.07.2017 passed in I.A.No.462 of 2017 in O.S.No.102 of 2016 on the file of the District Munsif Court, Mettur, thereby dismissing the petition for appointment of Advocate Commissioner.

2. The petitioners are the defendants in the suit filed by the respondents for declaration of injunction in respect of the suit schedule property. In fact, the petitioners has filed a suit for partition in O.S.No.339 of 2015 in respect of the very same property. Thereafter, the respondent filed a suit for the same property for declaration. In the suit filed by the respondent herein, the petitioner filed a petition for appointment of Advocate Commissioner to note down the physical features of the suit schedule property. According to the petitioner, due to temporary arrangement of partition in respect of the suit property, a portion of the property was allotted to the first petitioner out of the total house. After permission the petition was filed for appointment of Commissioner to note down the physical features of the suit property. The arrangements between

the petitioners and the respondents is for construction of house. After, obtaining the planning permission, it has to be proved by the petitioners before the trial Court. Therefore, the appointment of Advocate Commissioner is for collection of evidences. As such, the trial Court rightly dismissed the petition and this Court is not inclined to interfere with the order passed by this Court below and dismissed. However, learned counsel for the respondent submitted that the first respondent had died. The other legal heirs are at liberty to file a necessary petition before the Court below to implead the legal heirs in the suit. No costs. Consequently, connected miscellaneous petition is closed.

02.03.2021

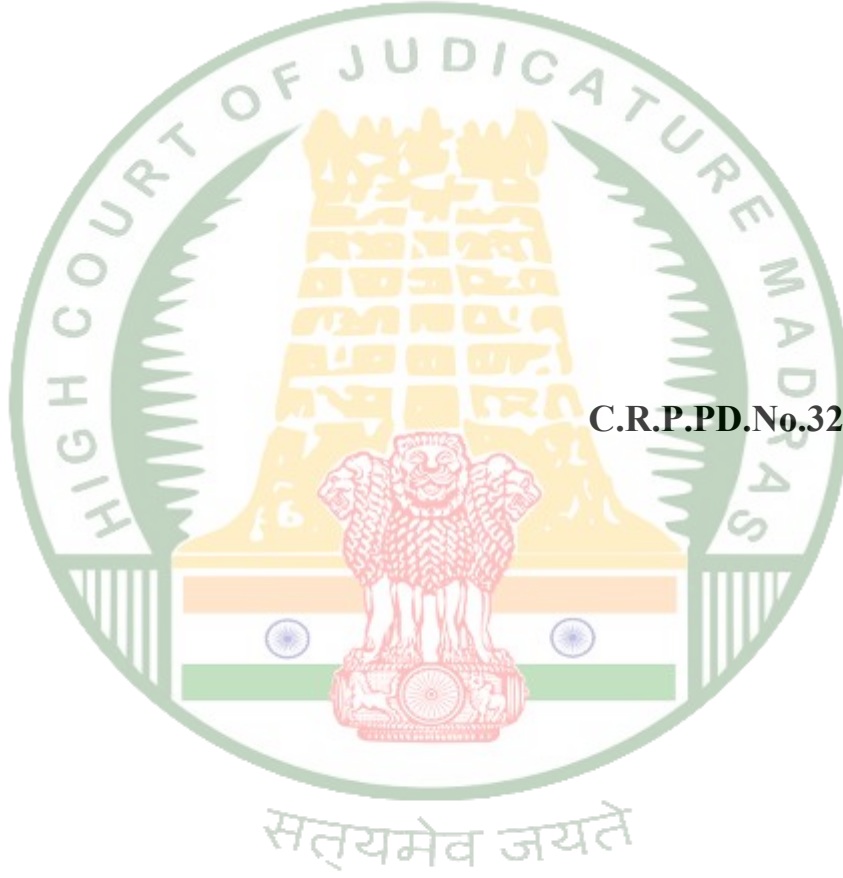
Index: Yes / No
Speaking order / Non speaking order
kmm

To

The District Munsif Court, Mettur.

G.K. ILANTHIRAIYAN, J.

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