

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2021

CORAM

The Hon'ble Mr.Justice Krishnan Ramasamy

C.R.P (NPD)No.3537 of 2017

and

C.M.P.No.16363 of 2017

M.Palanisamy

..Revision Petitioner

vs.

1. Marappa Gounder
2. Nallusamy
3. Ramasamy
4. Maruthayee
5. Muthusamy
6. Perumal
7. Kannan
8. Selvarani
9. Suseela

..Respondents

PRAYER:

Civil Revision Petition filed under Section 115 of the Code of Civil Procedure to set aside the fair and decreetal order dated 18.07.2017 made in I.A.No.89 of 2015 in I.A.No.1382 of 2004 in O.S.No.1650 of 2004 on the file of Additional District Munsif Court at Namakkal.

For Petitioner - M/S.T.L.Thirumalaisamy

For Respondents - Mr.S.Senthil for R1

ORDER

This Civil Revision Petition has been filed against the order, dated 18.07.2017 passed in I.A.No.89 of 2015 in I.A.No.1382 of 2004 in O.S.No.1650 of 2004 by the learned Additional District Munsif Court at Namakkal, allowing the application filed by the first respondent herein, seeking to provide police protection to the Advocate-Commissioner to survey the suit property.

2. The first respondent herein is the plaintiff and the petitioner herein and respondents 2 to 9 are the defendants in the suit in O.S.No.38 of 2004 filed before the District Munsif Court at Namakkal, for partition. In the said suit, at the instance of the 1st respondent/plaintiff, an Advocate-Commissioner has been appointed by the Court below to measure the suit property. Later, an interlocutory application in I.A.No.89 of 2015 has been filed by the 1st respondent/plaintiff seeking to provide police protection to the Advocate-Commissioner to execute the warrant and to measure the suit property. By order, dated 18.07.2017, the Court below ordered the I.A. and directed the Inspector of Police, Paramathy Police Station to provide

necessary protection to the Advocate Commissioner to carryout the entrusted work. Questioning the same, the petitioner/1st defendant has filed the present Revision Petition.

3. The learned counsel appearing for the petitioner submitted that no request was made by the Advocate Commissioner for the appointment of police protection and without any request from the Advocate Commissioner, the first respondent/plaintiff herein filed the application seeking police protection.

4. The learned counsel for the respondent would submit that the Advocate Commissioner has filed a memo dated 07.01.2015 before the Court, seeking police protection to measure the suit property since according to him, when he visited the suit property on 07.12.2014 along with Surveyor, the petitioner/1st defendant and his wife objected to survey the suit property and prevented him. Based on the said memo, the 1st respondent/plaintiff filed an application in I.A.No.89 of 2015, seeking to provide police protection to the Advocate Commissioner. In such circumstances, the Court below, taking note of the same, ordered the application and directed the concerned police to provide police protection

to enable him to carry out the entrusted work by measuring the suit property without any disturbance. Therefore, there is no error in the order passed by the Court below.

5. Taking into consideration the facts and circumstances of the case and in view of the above submissions made by the learned counsel for the 1st respondent/plaintiff, this Court does not find any infirmity in the order passed by the Court below. The Court below passed the order as early as in the year 2017, still the matter is pending at the stage of taking measurements of suit property by the Advocate Commissioner. Therefore, the Advocate-Commissioner is directed to carry out the entrusted work with the help of the police and file a report before the Court below as expeditiously as possible preferably within a period of eight weeks from the date of receipt of copy of the order.

6. With the above observation, the Civil Revision Petition is disposed of. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

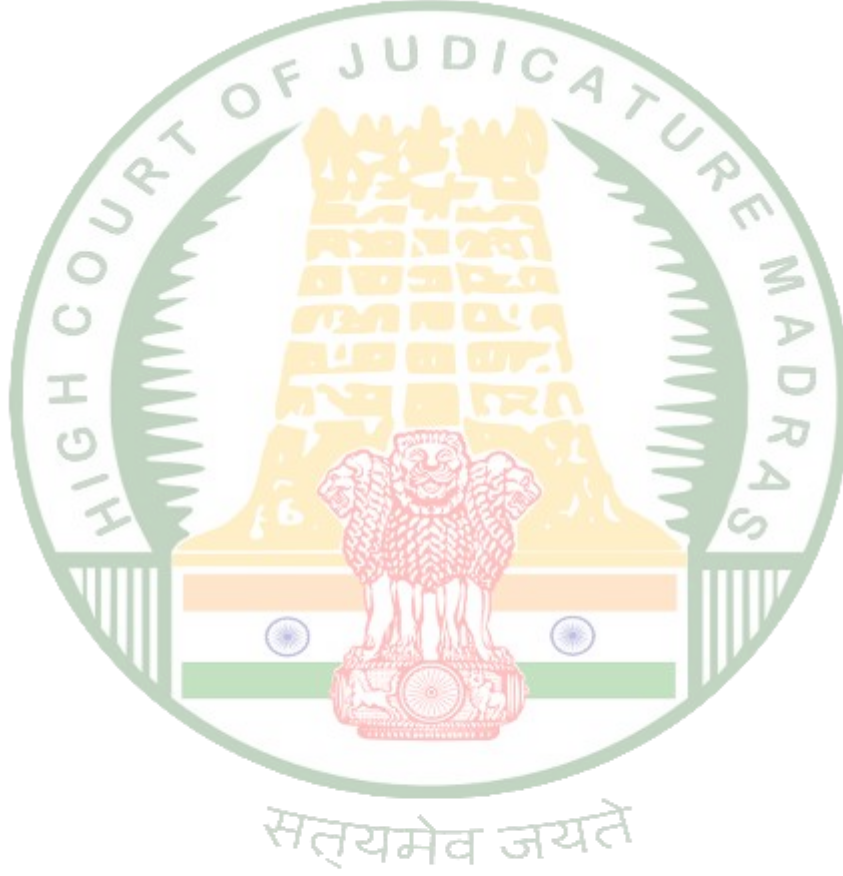
jd/suk

15.09.2021

Note: Issue order copy on or before 22.09.2021

Copy to

1. Mr.P.Kumaresan, Advocate-Commissioner
2. District Munsif Court at Namakkal



WEB COPY

Krishnan Ramasamy, J.,
jd/suk



C.R.P (NPD)No.3537 of 2017

15.09.2021

WEB COPY