

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2021

CORAM

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

CRP.PD.No.750 of 2017

and

CMP.No.3689 of 2017

Senthil Nathan

..Petitioner

Vs.

Easwaran

..Respondent

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and final order dated 19.12.2016 passed by the learned Principal District Munsif, Namakkal in IA.No.1163 of 2016 in IA.No.17 of 2014 in OS.No.273 of 2011 and prays in respect of order relating to police aid for the Advocate Commissioner and Surveyor alone.

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For Petitioner : Mr.L.Mouli

For Respondent : Mr.T.L.Thirumalaisamy

ORDER

This civil revision petition is filed against the order dated 19.12.2016 passed by the learned Principal District Munsif, Namakkal in IA.No.1163 of 2016 in IA.No.17 of 2014 in OS.No.273 of 2011, thereby allowing the petition for seeking police aid to measure the suit property.

2. The petitioner is the defendant and the respondent is the plaintiff. The respondent filed suit for bare injunction in respect of the suit property i.e. cart track. Along with the plaint, the respondent filed petition for appointment of advocate commissioner in IA.No.263 of 2011 and the same was allowed by order dated 19.05.2011. Accordingly, Advocate Commissioner was appointed and he inspected the suit property and filed his report. Based on the report, the respondent filed petition for amendment in IA.No.894 of 2013 to include the prayer of recovery of possession in respect of cart track, which is allegedly encroached by the petitioner herein. The same was allowed and thereafter, the respondent filed petition to re-issuance of warrant to the Advocate Commissioner for revisiting the suit property in IA.No.17 of 2014 and the same was allowed and Commissioner was directed to inspect the suit property and measure the suit cart track comprised in survey No.481 with the help of Surveyor and file report.

When the Advocate Commissioner inspected the suit property, the respondent requested to measure other properties also comprised in survey No.291/2 and 291/3 and as such the Advocate Commissioner without measuring the property filed memo on 30.09.2016 for necessary orders from the court below.

3. At that juncture, the respondent filed petition seeking police aid while measuring the property. The court below allowed the petition after accepting the contention of the petitioner that the Commissioner shall measure only the suit cart track, i.e. comprised in survey No.481 and also ordered for police aid. When the respondent requested the Advocate Commissioner to measure the other property comprised in survey No.291/2 and 291/3 and the same was now rejected and directed the Advocate Commissioner to inspect the suit cart track only comprised in survey No.481. Therefore, there will a possibility of untoward incident and as such the court below rightly ordered for police aid while measuring the suit property.

4. Therefore, this Court finds no irregularity or infirmity in the order passed by the court below. Accordingly, this civil revision petition is dismissed. However, the Police Officials concerned are directed to provide adequate police protection and restrain the

petitioner as well as the respondent from doing any unlawful activities.
Consequently, connected miscellaneous petition is closed. No order as to costs.

01.04.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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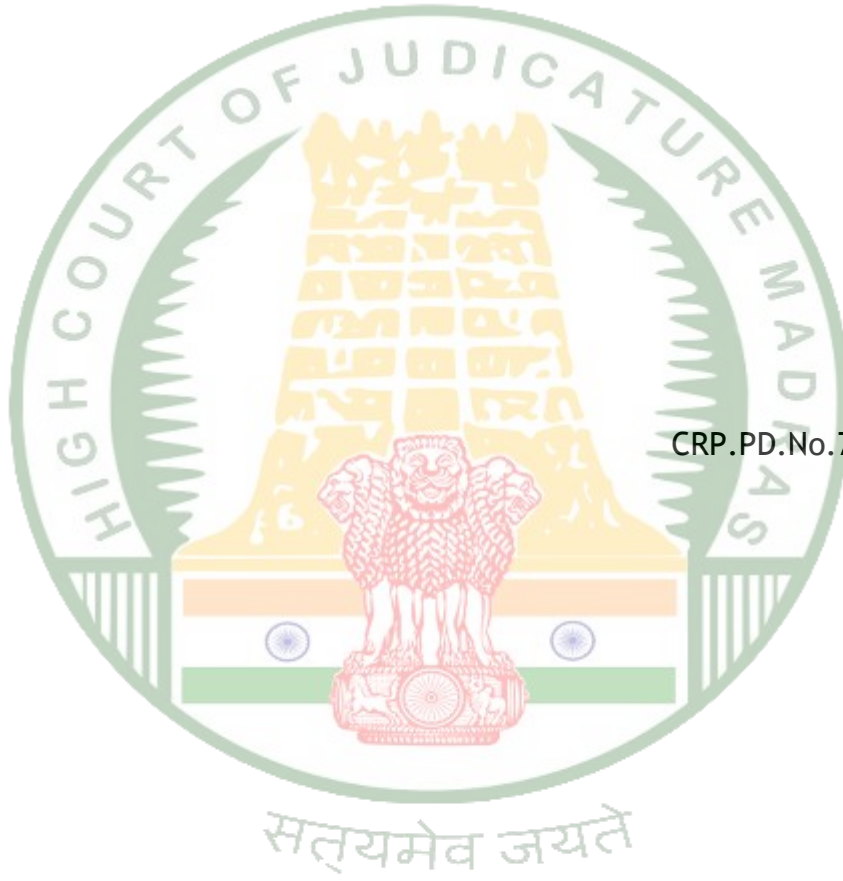
The Principal District Munsif,
Namakkal



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G.K.ILANTHIRAIYAN,J.

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