

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(PD).No.3015 of 2018
and C.M.P.No.17506 of 2018

Dharani

... Petitioner

Vs

Ramanan

... Respondent

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, against the Fair and Decreetal Order dated 13.07.2018 passed in I.A.No.619 of 2018 in O.S.No.188 of 2007 on the file of the District Munsif Court, Madurantagam.

For Petitioner : Mr.K.Govi Ganesan

For Respondent : Mr.N.Nagusah

ORDER

The Civil Revision Petition is filed against the Fair and Decretal Order dated 13.07.2018 passed in I.A.No.619 of 2018 in O.S.No.188 of 2007 on the file of the District Munsif Court, Madurantagam, thereby allow the petition to condone the delay in filing the objections to the Advocate Commissioner's report.

2. The petitioner is the plaintiff and the respondent is the defendant. The petitioner filed a suit for declaration and for permanent injunction in respect of the suit property. At the time of filing the suit itself the petitioner filed a petition for appointment of Advocate Commissioner and the same was allowed without any notice to the respondent herein.

3. The Advocate Commissioner inspected the suit property and filed his report as early as 31.07.2007 itself. Thereafter, the trial was commenced and when the matter was posted for Judgment, after completion of arguments on both sides, the petitioner filed petition to examine the Advocate Commissioner as Court witness and also to mark the report with

plan. The same was allowed and when the commissioner was in a witness box, the respondent was denied permission to cross examine the Advocate Commissioner for the reason that the respondent failed to file any objections of the Advocate Commissioner's report dated 31.07.2007.

4. Therefore, the respondent was constrained to file a petition to condone the delay of 3875 days in filing the petitions to the Advocate Commissioner's report. However, the said petition was allowed by the Court below. The respondent had knowledge about the appointment of the Advocate Commissioner as well as the report filed by him even at the time of evidence of the plaintiff side. even then, the respondent failed to file his objections to the Advocate Commissioner's report. Only at the time of examination of the Advocate Commissioner, the respondent filed the present petition to condone the delay of huge days in filing his objections.

5. Accordingly, Order dated 13.07.2018 passed in I.A.No.619 of 2018 in O.S.No.188 of 2007 on the file of the District Munsif Court, Madurantagam is set aside and this Civil Revision Petition is allowed. However, the respondent is permitted to cross examine the Advocate

Commissioner on the date fixed by the Courts below. Thereafter, the trial Court is directed to dispose of the suit within a period of ***eight weeks*** from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petition is closed. No order as to costs.

30.06.2021

Internet: Yes
Index: Yes/No
Speaking/Non speaking order
rna

To

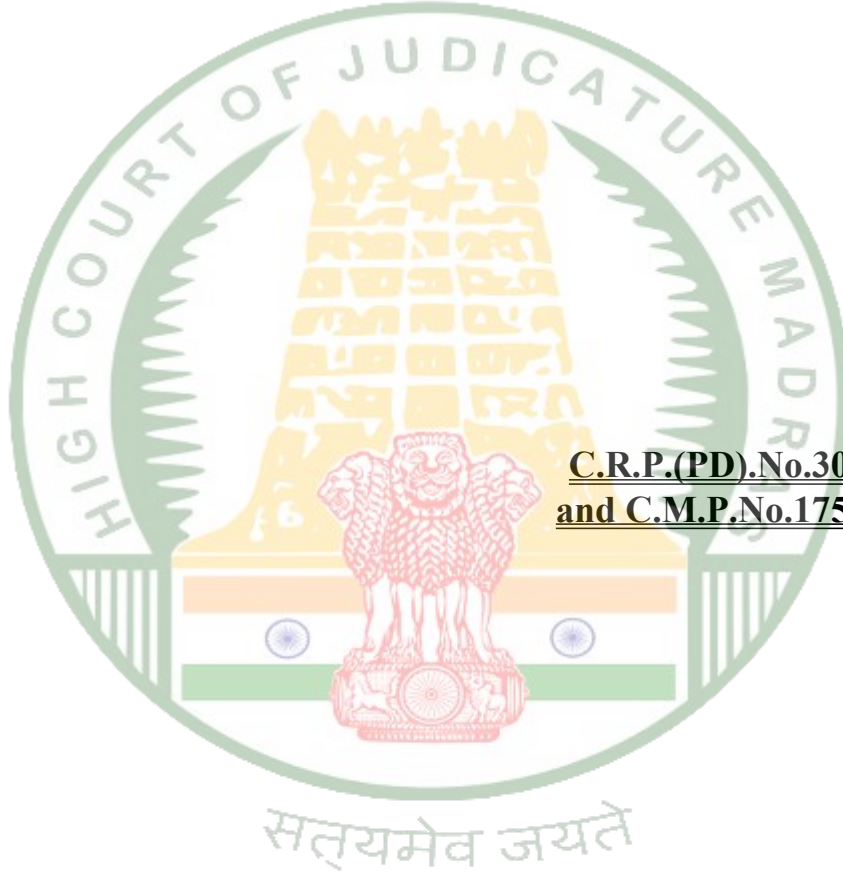
The District Munsif Court,
Madurantagam.



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G.K.ILANTHIRAIYAN. J,

rna



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