

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2021

CORAM

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

C.R.P.PD.No.3075 of 2018

and

C.M.P.No.17779 of 2018

1.D.Vasanthi

2.Partheeban

3.Gunalakshmi

... Petitioners

Vs.

S.Ramalingam

... Respondent

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order and decree in I.A.No.634 of 2018 in O.S.No.252 of 2018 dated 29.08.2018 passed by the Additional District Munsif, Alandur.

For Petitioners

: Mr.J.Pothiraj

Mr.N.Elumalai

For Respondent

: Mr.R.Sugumaran

ORDER

This Civil Revision Petition is directed as against the fair and decretal order passed in I.A.No.634 of 2018 in O.S.No.252 of 2018 dated 29.08.2018 on the file of the learned Additional District Munsif, Alandur, thereby allowing the petition seeking appointment of Advocate Commissioner.

2. The petitioners are the defendants and the respondent is the plaintiff. The respondent filed the suit for permanent injunction. While pending the suit, the respondent filed a petition for appointment of Advocate Commissioner. Though it is well settled law that in the suit for permanent injunction, the lawful possession has to be proved by the plaintiff and the Advocate Commissioner cannot be appointed, the same would amount to collection of evidence, on peculiar circumstances. In view of the circumstances of the present suit, the Court below appointed the Advocate Commissioner taking into consideration that the petitioners were set ex-parte as early as on 11.08.2018. That apart, by this time, the Advocate Commissioner would have inspected the suit property and filed his report. Therefore, this Court finds no infirmity or illegality in the order passed by the Court below.

3. Accordingly, this Civil Revision Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

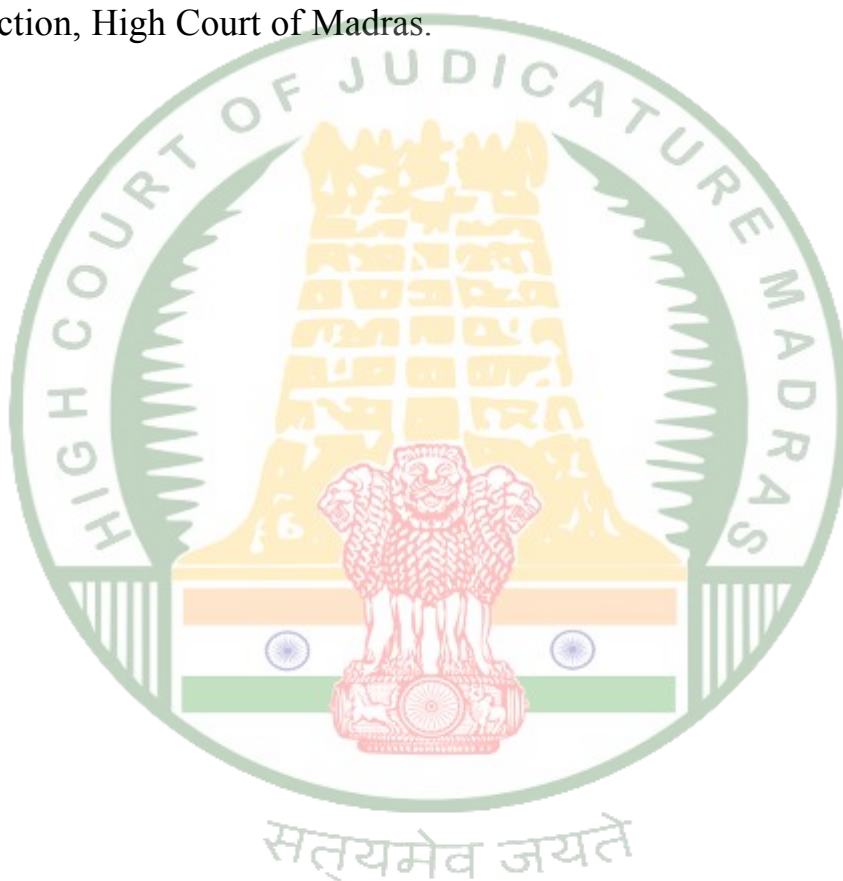
30.06.2021

Speaking/Non-speaking order

Index : Yes/No
kv

To

1. Additional District Munsif, Alandur.
2. The Section Officer,
V.R.Section, High Court of Madras.



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G.K.ILANTHIRAIYAN,J.

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