

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2021

CORAM

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

C.R.P.(PD) No.3714 of 2018 and
CMP.No.20644 of 2018

Paramasivam

..... Petitioner

Vs

- 1.Kanthan
- 2.Perumal
- 3.Velu
- 4.Palanisamy
- 5.Ramasamy
- 6.Mani
- 7.Balan
- 8.Poongodi
- 9.Village Administrative Officer,
Muthukalipatti Village
- 10.Tahsildar,
Rasipuram
- 11.The Revenut Divisional Officer,
Namakkal

Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decretal order in IA.No.183 of 2017 in OS.No.16 of 2017 dated 09.08.2018 passed by the learned District Munsif, Rasipuram.

For Petitioner : Mr.T.R.Rajaraman
for M/s.D.Chitra Maragatham

For Respondents : No appearance

ORDER

This Civil Revision Petition is filed against the fair and decretal order in IA.No.183 of 2017 in OS.No.16 of 2017 dated 09.08.2018 passed by the learned District Munsif, Rasipuram, thereby dismissing the petition seeking for appointment of advocate commissioner.

2. Though notice was served, no one appeared on behalf of the respondents before this Court in person or through pleader.

3. The petitioner is the plaintiff and the respondents are the defendants. The petitioner filed suit for declaration and injunction in respect of the suit property. While pending suit, the petitioner filed application for seeking appointment of advocate commissioner to note down the physical features, to measure the suit property and fix northern boundaries of the suit property with the help of qualified surveyor. The case of the petitioner is that there is dispute in respect of northern boundaries of the suit properties. Though the petitioner initially filed suit for permanent injunction, subsequently, amended the prayer for declaration of the suit

property in his favour. The court below dismissed the same for the reason that the appointment of advocate commissioner amounts to collection of evidence in a suit for permanent injunction. Whereas, the present suit has been filed for declaration and permanent injunction and to note down the physical features of the suit property.

4. Considering the above facts and circumstances of the case, this civil revision petition is allowed and the order passed in IA.No.183 of 2017 in OS.No.16 of 2017 dated 09.08.2018 on the file of the learned District Munsif, Rasipuram is set aside. The court below is directed to appoint advocate commissioner to note down the physical features of the suit properties and to measure the northern side boundaries of the suit properties with the help of the surveyor. Consequently, connected miscellaneous petition is closed. No order as to costs.

WEB COPY

06.07.2021

lok

Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

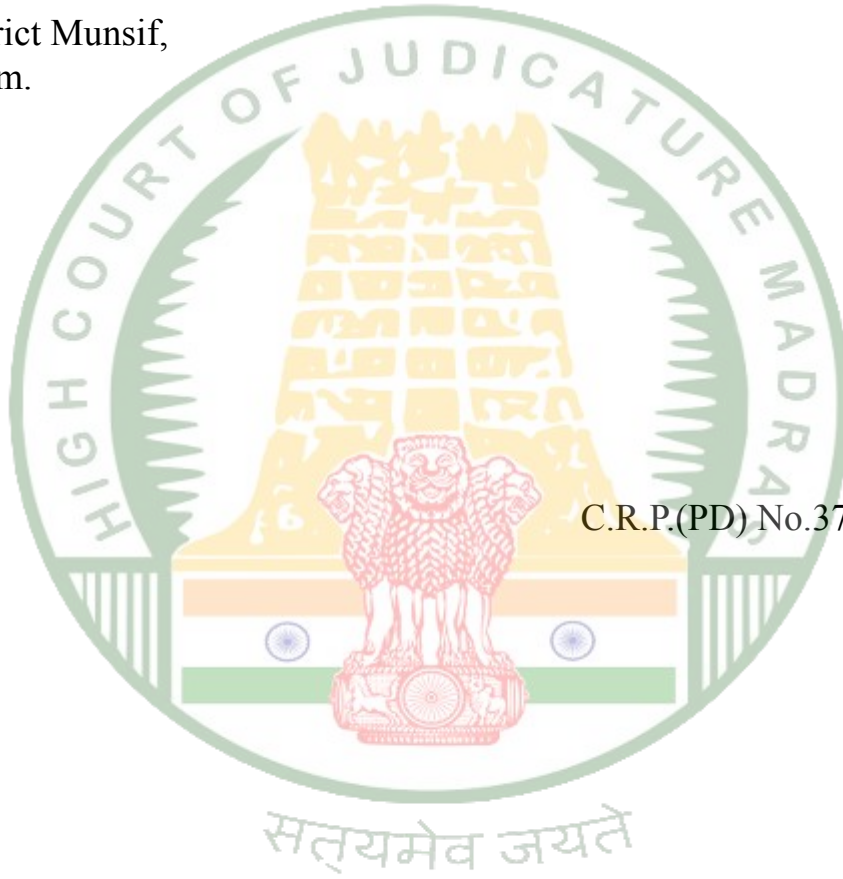
3/4

G.K.ILANTHIRAIYAN,J.

lok

To

The District Munsif,
Rasipuram.



C.R.P.(PD) No.3714 of 2018

WEB COPY

06.07.2021