

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2021

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.R.P.(PD)No. 3660 of 2018
and C.M.P.No.20369 of 2018

1.Madanlal D.Chawla
2.Mahesh D.Chawla
3.Sanjay M.Chawla
4.Rekha M.Chawla
5.Roma M.Chawla
6.K.V.P.Kembadass
7.K.V.P.Balasubramani
8.K.V.P.Govindaraju
9.K.V.P.Nagaraj
10.K.V.P.Chandrasekhar

...Petitioner

A.Gowri

... Respondent

Prayer Civil Revision Petition filed under Article 227 of the Constitution of India, prayed to set aside the fair and decreetal order dated 06.08.2018 in I.A.No.129 of 2018 in O.S.No.561 of 2012 on the file of the Principal District Munsiff Court, Salem.

For Petitioner : Mr.Selvaraj K.

For Respondent : Ms.Zeenath Begum

ORDER

The Civil Revision Petition has been filed against the order made in I.A.No.129 of 2018 in O.S.No.561 of 2012 dated 06.08.2018 on the file of the Principal District Munsif Court, Salem.

2.The learned counsel for the petitioner submitted that the I.A.No.129 of 2018 was filed for the purpose of appointment of Advocate Commissioner to note down the physical features. The Court below dismissed the said application for the reason that the Court below already appointed the Advocate Commissioner for the same reason in I.A.No.789 of 2012. He further submitted that I.A.No.129 of 2018 was filed to note down the physical features which was subsequently altered by the respondent/plaintiff in the suit property. Therefore appointment of Advocate Commissioner is necessary to note down the physical features once again. However, this fact was not considered by the Court below.

3.Per Contra, the learned counsel for the respondent submitted that the Court below already appointed an Advocate Commissioner in I.A.No.789 of 2012 and the Advocate Commissioner has also filed a report noting down the

physical features and measuring the boundary with the help of the surveyor. Once the Advocate Commissioner filed a report, anything more than that will be secondary to the Commissioner's report. According to the respondent, there is no need of any apprehension even there is any construction or alteration in the physical features, and any order that is going to be passed based on the Advocate Commissioner's report filed in I.A.No.789 of 2012. Therefore all the facts are considered by the Court below and rightly dismissed the application filed by the Revision Petitioner herein.

4.Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record.

5.On perusal of the order, it shows that the Court below dismissed the application on the ground that the Advocate Commissioner has already been appointed and the report also filed by him noting down the physical feature and measuring the property with the help of the Surveyor. Even directing one more Advocate Commissioner for measuring any alteration will not reform the case since the Court below will pass order based on the previous Advocate

Commissioner's report which is not going to affect the interest of justice in any way.

6.Further, the petitioner can also file his objection for the previous Advocate Commissioner's report and entitled to cross examine the Advocate Commissioner if so advised. In case, the petitioner intend to cross examine the Advocate Commissioner, the Court below shall permit the same.

7.With the above observation, the Civil Revision Petition is disposed of. No cost. Consequently, connected miscellaneous petition is closed.

07.01.2021

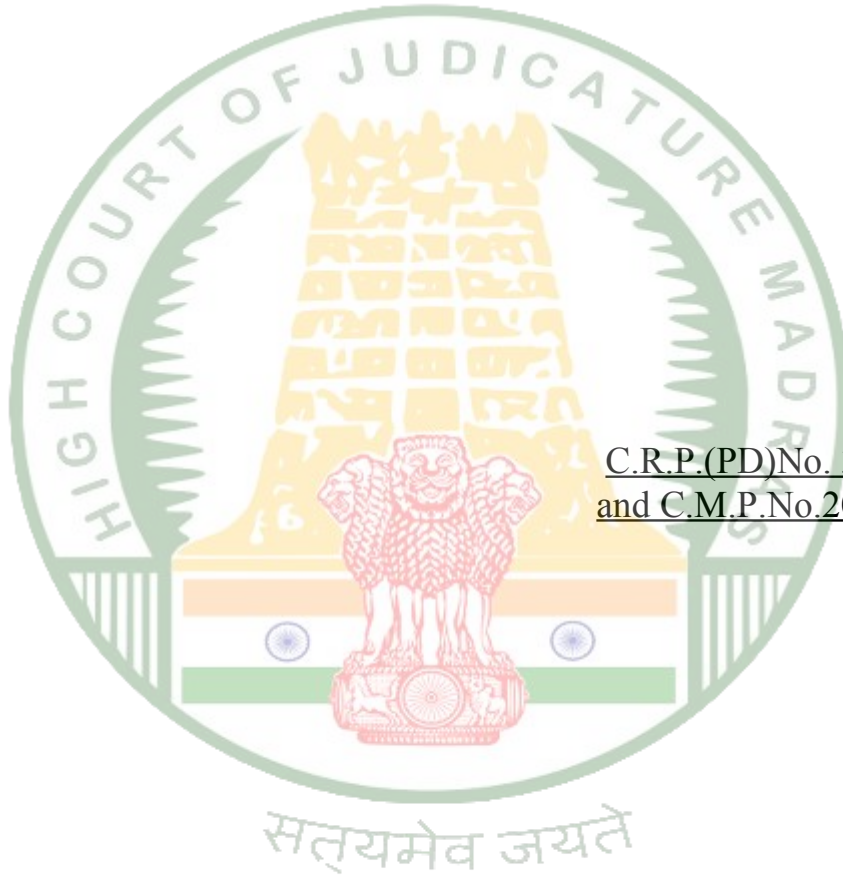
Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order

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To:
The Principal District Munsif Court, Salem.

KRISHNAN RAMASAMY,J.

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