

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.2984 of 2018
and
CMP No.17352 of 2018**

C.P.Annamalai ... Petitioner

Sagadevan ... Respondent

Vs

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 23.07.2018 made in I.A.No.12 of 2018 in O.S.No.162 of 2012 on the file of the District Munsif, Arakkonam, Vellore District.

For Petitioner : Mr.A.Jayaraman

For Respondent : No appearance

ORDER

This Civil Revision Petition is filed against the fair and decreetal order dated 23.07.2018 made in I.A.No.12 of 2018 in O.S.No.162 of 2012 on the file of the District Munsif, Arakkonam, Vellore District, thereby dismissing the petition for re-issuance of Advocate Commissioner warrant.

2. The petitioner is the plaintiff and the respondent is the defendant. The petitioner filed a suit for bare injunction in respect of the suit property. While pending suit, the petitioner filed an application for appointment of Advocate Commissioner to inspect the suit property and to note down the physical features of the same. The said application was allowed and accordingly, the Advocate Commissioner was appointed. He inspected the suit property with the help of Taluk Surveyor and measured the property and filed his report. On receipt of the Advocate Commissioner's report, the petitioner also filed his objections and thereafter, he filed the above application to re-issuance of Advocate Commissioner to inspect the property once again with the help of Inspector of Survey, Ranipet Division.

3. First of all, when the suit is filed for bare injunction, the Advocate Commissioner cannot be appointed, since it amounts to collection of evidence. However, the Court below appointed an Advocate Commissioner and he has also filed his report. In fact, the petitioner also

filed his objection. At this juncture, without scraping the first Advocate Commissioner's report, there is no question of re-issuance of warrant to Advocate Commissioner to inspect the property once again. Therefore, the Court below rightly dismissed the petition.

4. In view of the above, this Court finds no infirmity or illegality in the order passed by the Court below. Accordingly, the Civil Revision Petition stands dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

30.06.2021

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Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

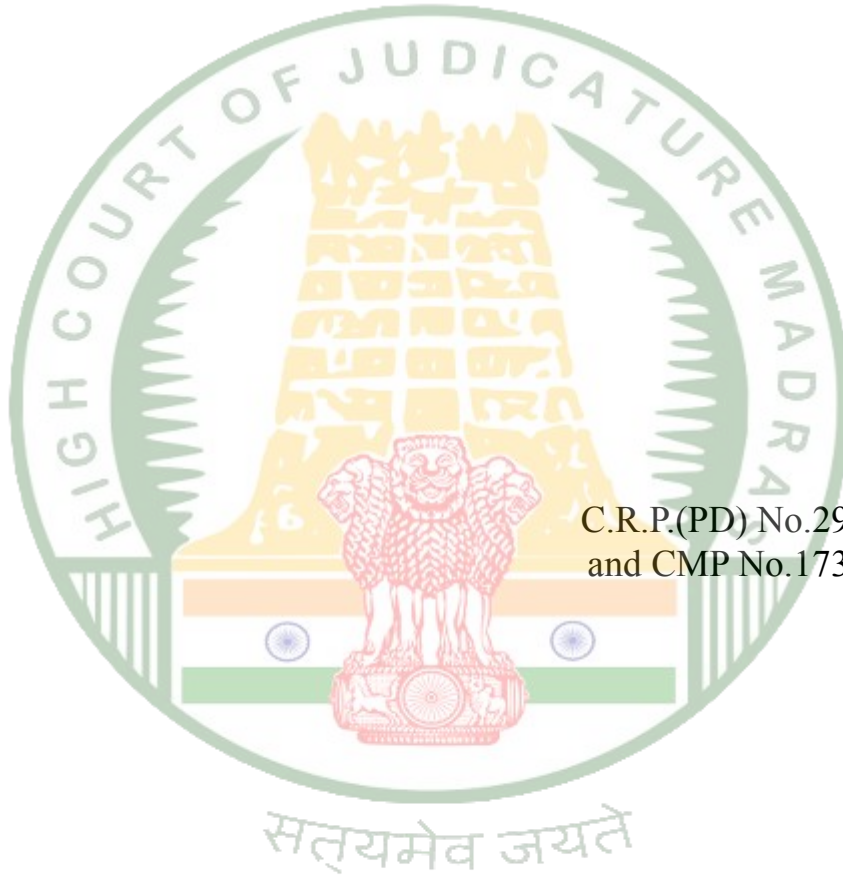
To

The District Munsif,
Arakkonam, Vellore District.

C.R.P.(P.D).No.2984 of 2018

G.K.ILANTHIRAIYAN,J.

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