

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 20-09-2017

CORAM

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P.NPD.Nos.3500 & 3501 OF 2017

Mohamed Cassime

...

Petitioner in both C.R.Ps.

-vs-

1.A.M.K.Balu

2.S.Abdul Kader

3.K.Sivasankar

4.V.Mahalakshmi

...

Respondents in both C.R.Ps.

C.R.P.NPD.No.3500 of 2017 is filed against the order, dated 07.08.2017, passed in I.A.No.6 of 2017 in A.S.No.4 of 2016 on the file of Sub-Court, Karaikal.

C.R.P.NPD.No.3501 of 2017 is filed against the order, dated 07.08.2017, passed in I.A.No.7 of 2017 in A.S.No.4 of 2016 on the file of Sub-Court, Karaikal.

For petitioners : M/s.Sai Bharath and Ilan

ORDER

These Civil Revision Petitions are directed against the dismissal of the applications for amending the plaint and impleading the parties.

2. The case of the petitioner is that he has filed the suit O.S.No.191 of 2005, for declaration and consequential injunction. At the time of cross-examination, the proposed parties have trespassed into the portions of the suit properties and constructed houses. Those parties were not impleaded as defendants in the suit, due to inadvertence. Therefore, suitable amendment of the plaint and impleading of the parties were sought for.

3. The suit is at the stage of trial. The defendant has filed a written statement in the suit, wherein, he has clearly mentioned the fact that the properties were sold to the proposed parties as early as in the year 2001.

4. In fact, an issue was framed, as to the hitting of the suit for non-joinder of necessary parties. The petitioner has waited all along and, at the fag end of the trial, has filed the application for amendment of the plaint and impleading of the parties. From the year 2005 to 2017, 12 years have elapsed. Therefore, the claim made by the petitioner is barred by limitation.

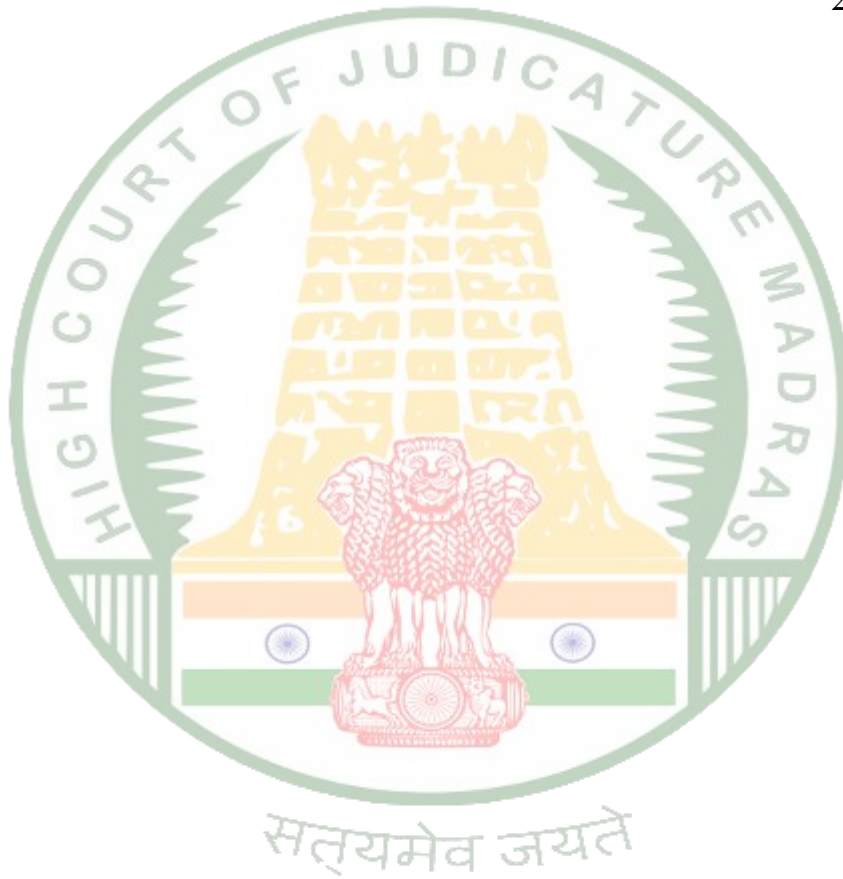
5. Considering all the above facts and circumstances in detail, the trial Court has found that the petition is not maintainable. Post-trial amendment of the plaint at the belated stage cannot be entertained. Moreover, the right accrued on the proposed parties cannot be questioned at the belated stage and, as such, the prayer is barred by limitation. Therefore, this Court is not inclined to interfere with the conclusion arrived at by the Court below.

6. Civil Revision Petitions do not merit consideration and they are dismissed.

No costs. Consequently, the connected C.M.P.No.16266 of 2017 is closed.

20-09-2017

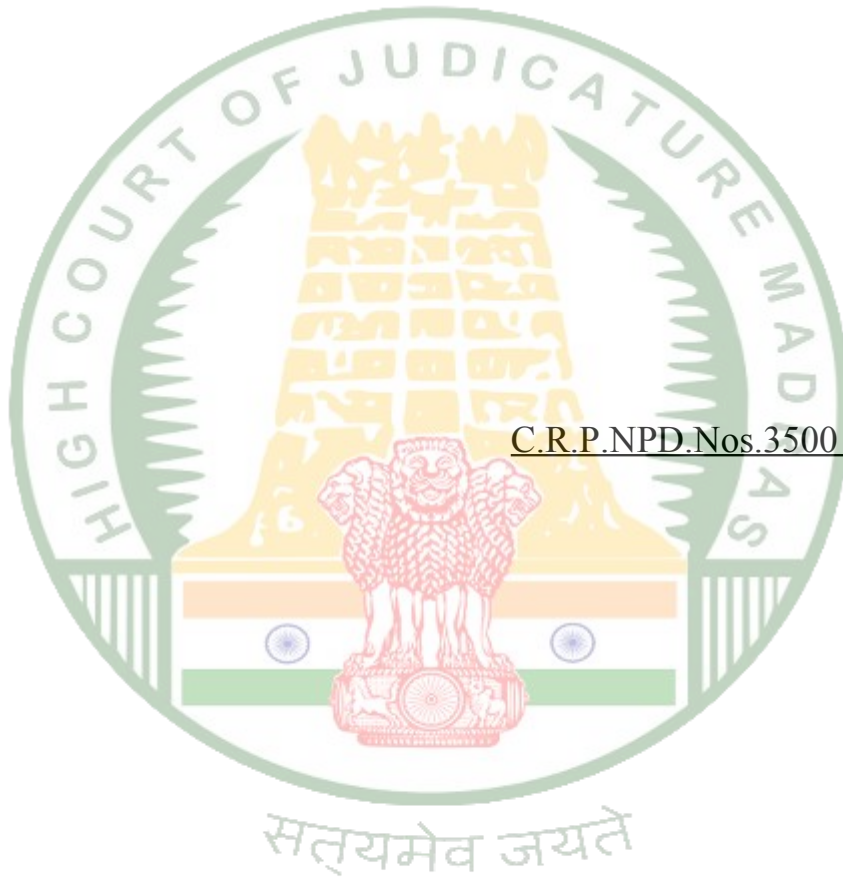
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M.GOVINDARAJ,J.

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