

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2017

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

C.R.P.(PD) No.4201 of 2017
and
C.M.P.No.19706 of 2017

Ayyamperumal

... Petitioner/Plaintiff

Vs

1 The Assistant Commissioner
HR & CE,
Coimbatore.

2 Thakkar/Executive Officer,
Arulmighu Varadha Perumal Temple,
Jotham Patti Village,
Madathukulam Taluk,
Udumalpet.

... Respondents/Defendants

सत्यमेव जयते

This Civil Revision Petition is filed under Article 227 of Constitution of India against the order dated 29.08.2017 made in I.A.No.268 of 2017 in O.S.No.474 of 2008 on the file of the Principal District Munsif, Udumalpet.

For Petitioner

: Mr.S.Gunalan

ORDER

According to the petitioner, the petitioner has filed suit in O.S.No.474 of 2008 before the Principal District Munsif, Udumalpet for permanent injunction. The petitioner has filed an application in I.A.No. 268 of 2017 to add prayer for declaration by way of amendment. According to the petitioner, after filing written statement only, petitioner came to know that by oversight declaration prayer has not been included in the plaint. Hence, he filed the present application for amendment. If the said application is allowed, no prejudice would be caused to the petitioner. Hence, the order passed by the Court below is perverse and the same is liable to be set aside.

2 Heard the learned counsel for the petitioner and and perused the materials on record.

3 It is clear from the order passed by the court below, that the petitioner has filed the suit in the year 2008, the respondent herein has filed written statement in the year 2009. In the written statement, the respondent/defendant disputed the title of the petitioner. Now, the contention of the petitioner, by oversight the prayer for declaration, has not been included in the plaint and he came to know the same only after filing written statement and therefore, he filed the present application cannot be accepted since the

petitioner has not stated any reason for filing the application belatedly that too nearly after 9 years. Therefore, there is no justification to interfere with the order passed by the court below and thus, this Court does not warrant to interfere with the order passed by the Court below.

4 Accordingly, the Civil revision petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

20.11.2017

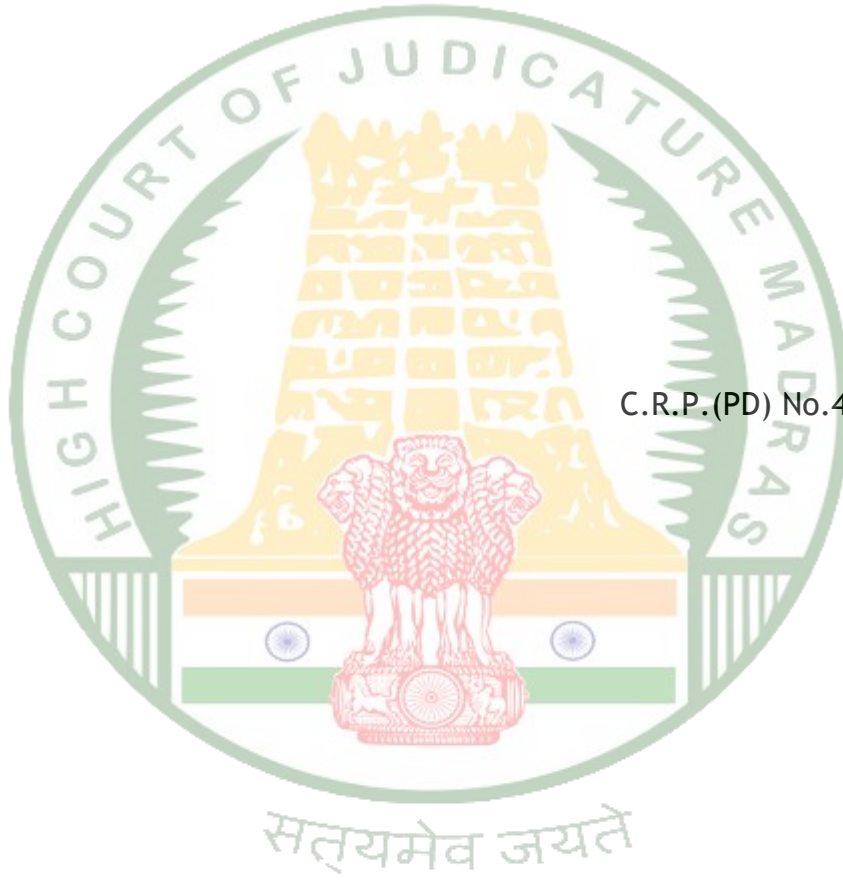
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To
The Principal District Munsif, Udumalpet

सत्यमेव जयते
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D.KRISHNAKUMAR,J.

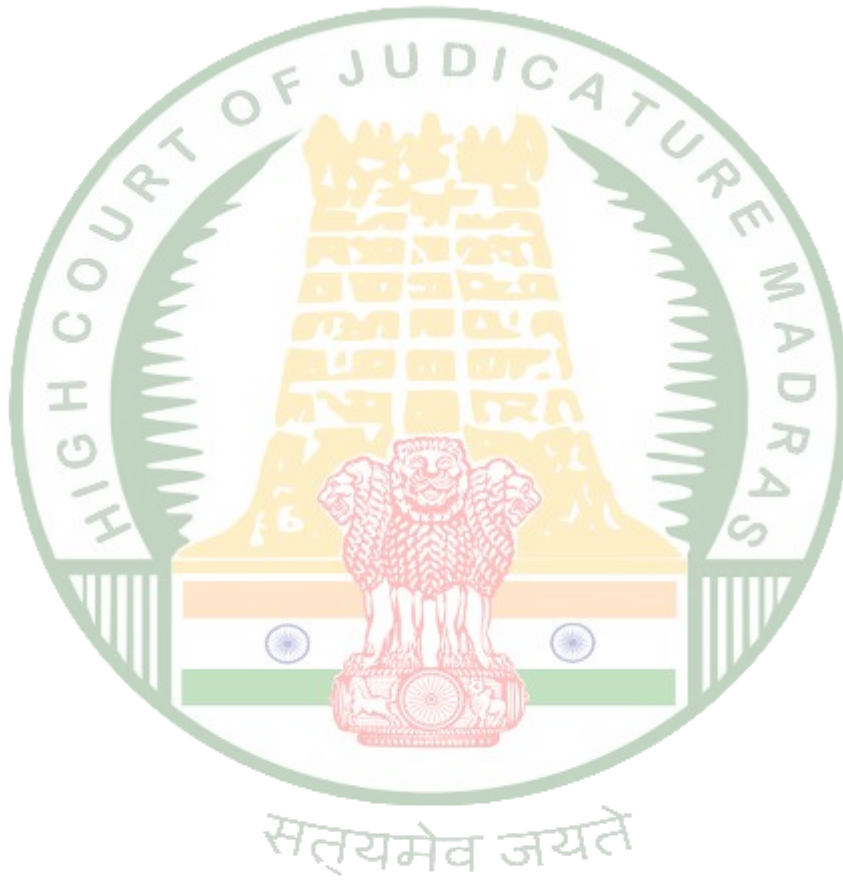
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