

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 28.03.2019

Coram:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.R.P.(PD)No.1035 of 2011
and M.P.No.1 of 2011

Mani

..

Petitioner

versus

1.Arumugam
2.Ganesh

..

Respondents

PRAYER: Civil Revision Petition has been filed under Article 227 of the Constitution of India, against the order dated 26.10.2010 made in I.A.No.1519 of 2010 made in O.S.No.112 of 2007 on the file of the learned District Munsif, Jayankondam.

For Petitioner	: Mr.G.Ananthrangan
For Respondent No.1	: Mr.S.Nagarajan
For Respondent No.2	: No Appearance

ORDER

Aggrieved over the dismissal of the application filed under Order 6 Rule 17 of the Code of Civil Procedure, to add the new Survey Numbers in the suit properties instead of old Survey Number, the present Civil Revision Petition is filed.

2. The suit has been originally filed for permanent injunction in respect of the suit property bearing old Survey No.373/1NA and specific boundaries have been given. At the time of trial, after examination of P.W.1 to P.W.3, the application has been filed by the plaintiff to amend the old Survey Number by including the new Survey Numbers as S.Nos.604/11 and 604/12. However, the trial Court has dismissed the above application on the ground that the amendment sought for after commencement of trial.

3. The learned counsel appearing for the revision petitioner would contend that the amendment will not change the character of the suit and it is only just adding the correct Survey Number, merely because the trial has commenced, the party's right cannot be defeated.

4. The learned counsel appearing for the first respondent would contend that there is no evidence with correlate the Survey Number and now, the plaintiff cannot introduce new Survey Number that too after commencement of trial and hence, he prayed for dismissal of the Revision.

5. It is the contention of the plaintiff that only during the examination of V.O.A., they came to know that the new Survey Numbers have been assigned and therefore, those Survey Numbers have to be included. It is to be noted that the amendment only sought to be included new Survey Numbers except that no other amendment has been sought for by the revision petitioner. The boundaries are remains the same.

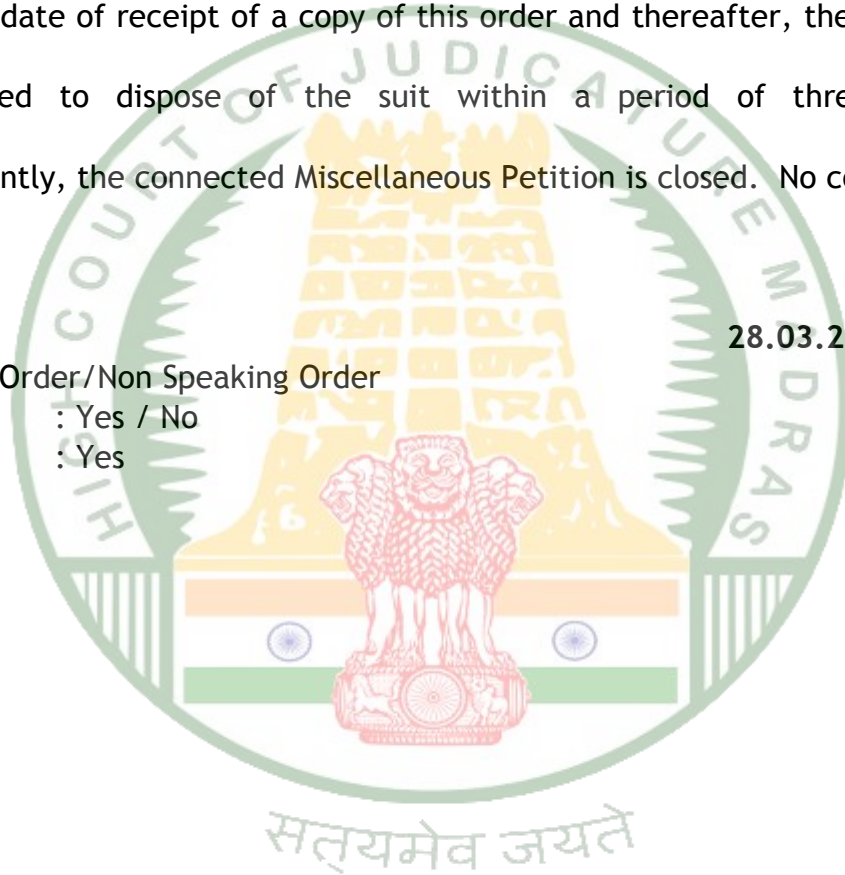
6. Merely set right the Survey Number by including New Survey Numbers, no prejudice would be caused to the other side and the character of the suit remains the same. The conduct of the defendants in the written statement, they denied the very purchase and title itself. Therefore, this Court is of the view that the amendment will not change the cause of action and in fact, the entire issues will enable the Court to give a finding in all respects.

7. In the result, the Civil Revision Petition is allowed and the order of the trial Court passed in I.A.No.1519 of 2010 made in O.S.No.112 of 2007 dated 26.10.2010 is hereby set aside. The revision petitioner shall take steps to amend the plaint before the trial Court, within a period of two weeks from the date of receipt of a copy of this order and thereafter, the trial Court is directed to dispose of the suit within a period of three months. Consequently, the connected Miscellaneous Petition is closed. No costs.

28.03.2019

Speaking Order/Non Speaking Order
Index : Yes / No
Internet : Yes

sri



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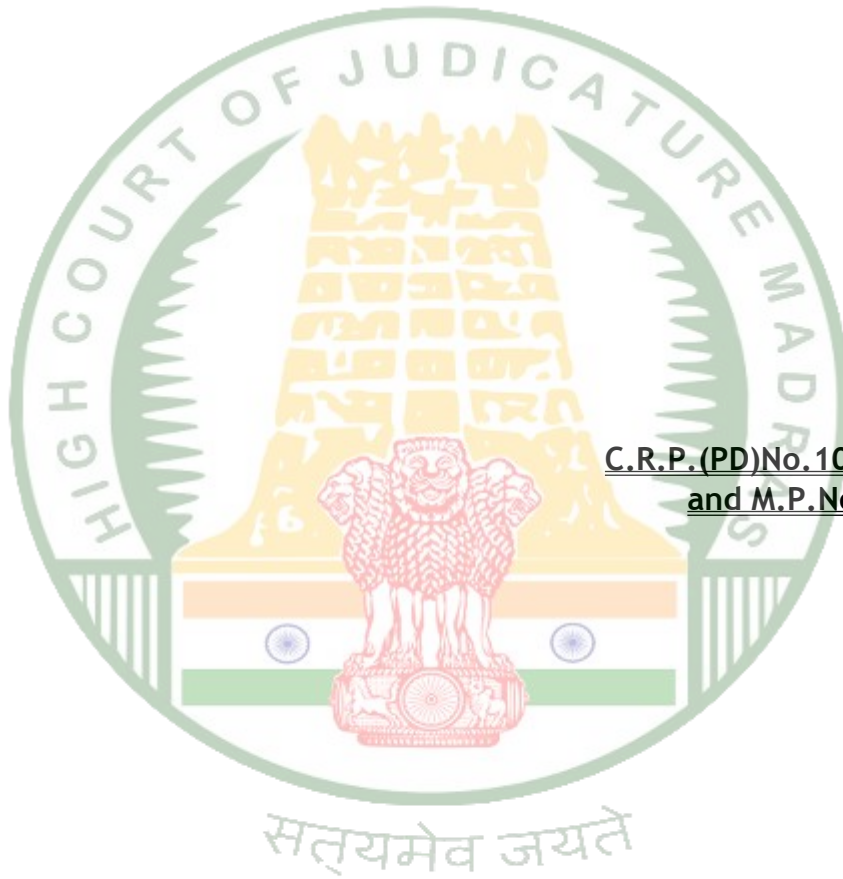
To

The District Munsif,
Jayankondam.



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N.SATHISH KUMAR, J.,
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