

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:03.04.2019

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The Hon'ble Mr.Justice **N. SATHISH KUMAR**

C.R.P.(PD).No.1384 of 2011

and

M.P.No.1 of 2011

Sarasu

.. Petitioner

vs.

1.Vasantha @ Vasanthi

2.R.Natesan

.. Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the order of the learned District Munsif Court at Sankari, dated 10.02.2011 in I.A.No.1369 of 2010 in O.S.No.281 of 2007.

For Petitioner : Mr.P.Valliappan

For Respondent-1 : Mr.N.Manokaran

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ORDER

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This Civil Revision has been filed against the interlocutory application which was allowed by the Trial Court seeking an amendment, that too, after completion of examination of P.Ws.1 & 2. The said amendment application was filed by the plaintiff, to include

certain movable properties, i.e., trees which were planted by her and a bore well. The Trial Court has allowed the application on the ground that, there is no prejudice caused to other side and to avoid technical defects in the plaint. Against the said amendment application, the second respondent is before this Court.

2. Heard the learned counsel appearing for the revision petitioner as well as the learned counsel appearing for the first respondent.

3. It is the contention of the learned counsel for the revision petitioner/second defendant that, while she pleaded before the Trial Court to receive additional written statement, wherein she has specifically stated that the trees were planted by her and she only dug the bore well and only in order to take away the said admission made during cross examination, the said application was filed inter alia contending that, the trees were planted by the plaintiff. Hence, such an amendment will take away rights proved by the defendants. Hence, prayed for allowing this revision.

4. Per contra, learned counsel appearing for the first respondent/plaintiff would contend that, the amendment is only a mere inclusion of movable properties and only in order to avoid future dispute the said application had been filed and this will not cause any prejudice to the other side. Hence, he prayed for dismissal of this revision.

5. Admittedly the amendment sought for is post trial amendment, i.e., amending certain movable properties in the suit schedule. Although such amendment is necessitated and may not affect the right of the defendants, the fact remains that the above amendment was sought on the ground that, only the plaintiff has grown such trees and made improvements. Such averments in the affidavit is in fact made, after the certain admissions made in the depositions.

6. Therefore, this Court is of the view that averments made in the affidavit explaining the admission made in the deposition cannot be given any importance. Hence, the trial Court, while trying the suit, need not take into account the subsequent pleadings made with

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regard to planting of trees and digging of bore well, since those pleadings are made after admission and merely during trial.

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

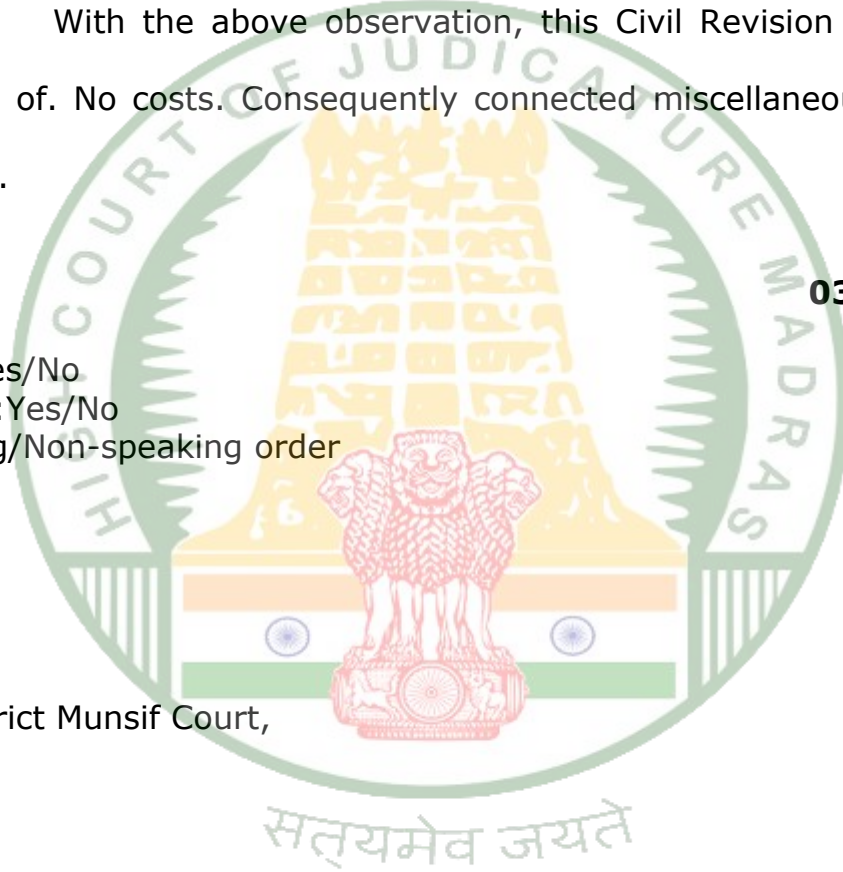
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Index:Yes/No
Internet:Yes/No
Speaking/Non-speaking order

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To

The District Munsif Court,
Sankari



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