

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 02.01.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

C.R.P. (PD).No.3258 of 2015
and MP.No.1 of 2015

John Samuvel

Petitioner/Plaintiff

Vs

1.Jeeva
2.Sumathi

Respondents/ Defendants

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 18.06.2015 made in I.A.No.106 of 2015 in O.S.No.82 of 2008 on the file of the learned District Munsif, Coonoor.

For Petitioner : Mr.J.Franklin

For Respondents : Mr.N.Damodaran for R1
No appearance for R2

ORDER

The order under challenge in the present revision is the rejection of petitioner application seeking for amendment of the Survey Number of the suit property. The Court below has rejected the petitioner application on the ground that the application has

been made belatedly filed, after a lapse of four years and three months and by observing that earlier, the petitioner has filed another amendment petition, which also came to be allowed and at which point of time, the petitioner did not seek for amendment of the Survey Number.

2. The learned counsel appearing for the first respondent also would oppose the petitioner's submission by stating that the Chitta produced by the petitioner before this Court also evidences that the petitioner was well aware of the exact Survey Number at the time of the institution of this suit. Further, he would submit that at the time of filing earlier amendment petition, the petitioner had not sought for amendment of the Survey Number, though, he was quite aware of exact Survey Number.

3. I do not find any infirmity in such a findings as rightly pointed out by the trial Court. On a perusal, it looks as if the petitioner was aware of the exact Survey Number, prior to filing of the suit and that the petitioner has approached the trial Court after a lapse of more than four years.

4. In normal circumstances, this Court will not interfere with

such well founded findings. Nevertheless, it is seen that the suit is one for permanent and mandatory injunction. The petitioner seeks for an amendment in connection with Survey No.61/2B, which has been wrongly stated as S.No.61/2 in the original plaint. Since the relief sought for is permanent and mandatory injunction, I am unable to see the prejudice that could be caused to the respondents herein. As a matter of fact, the amendment, if ordered, it would assist the Court for proper adjudication. The delay in approaching the trial Court for the amendment since is inordinate, the same could be set right by putting the petitioner herein under terms.

5.Hence, the order made in I.A.No.106 of 2015 in O.S.No.82 of 2008 dated 18.06.2015 is set aside. Consequently, the prayer sought for in I.A.No.106 of 2015 in O.S.No.82 of 2008 shall stand allowed to the effect that the Survey No.61/2, wherever found in the plaint, shall stand amended as Survey No.61/2B, subject to the condition that the petitioner pays a sum of Rs.10,000/- to the respondents herein and file a memo of proof of cost paid before the trial Court. On receipt of such memo, the trial Court is called upon to carry out suitable amendments in the plaint in OS.No.82 of 2008.

6. With the above observations, this Civil Revision Petition stands ordered. Consequently, connected miscellaneous petition is closed.

02.01.2019

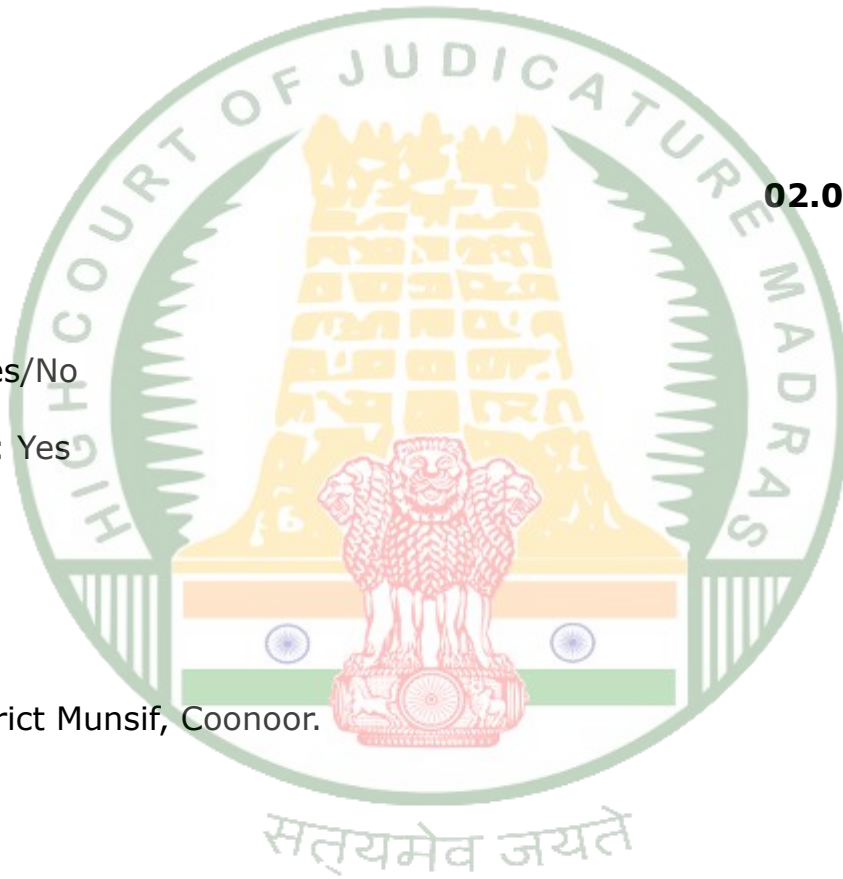
Index: Yes/No

Internet: Yes

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To

The District Munsif, Coonoor.



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M.S.RAMESH, J.

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