

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2019

CORAM

THE HONOURABLE MR.JUSTICE M.S. RAMESH

C.R.P. (PD) No. 3863 of 2015

and

M.P. No. 1 of 2015

K.R.Kamalakannan ...Petitioner

Vs.

A.Jayakumar ...Respondent

Prayer : Petition filed under Article 227 of the Constitution of India, praying to allow the above civil revision petition and set aside the fair and decreetal order dated 01.09.2015 passed by the learned III Additional District Judge at Poonamallee in I.A. No. 91 of 2015 in O.S. No. 19 of 2013.

For Petitioner : Mr.S.Anil Sandeep

For Respondent : Mr.R.Bharath Kumar

ORDER

सत्यमेव जयते

What the petitioner seeks to amend is an inclusion of new Survey No.51/16 in the plaint. The reason assigned by the petitioner in his affidavit filed in support of the application filed under Order VI Rule 17 of Civil Procedure Code, 1908, is that they had inadvertently missed out to mention the new Survey No.51/16 in respect of the suit property in the plaint. The inclusion of such new such survey No.51/16, along with the old Survey No.51/4 may not amount to bringing out a fresh cause of action.

2. The only ground on which the trial court had rejected the application is that the trial had already commenced and in view of the bar under Order VI Rule 17 of Civil Procedure Code, such an amendment cannot be carried out at a belated stage. It is no doubt true that the plaintiff ought to substantiate that in spite of due diligence at the earlier point of time, they were precluded from filing the amendment petition. Nevertheless it is seen that since the original suit property carries the old survey No.51/4 and the present inclusion is only the new Survey No.51/16, no prejudice would be caused to the Respondent herein. The inclusion of the new survey number also may not necessitate the respondent herein for filing any additional pleadings. As such, the Court below ought to have taken a lenient view to allow the inclusion of new Survey No.51/16 in the plaint, by way of an amendment.

3. In the light of the above observations, the order dated 01.09.2015 passed in I.A. No. 91 of 2015 in O.S. No. 19 of 2013 is set aside. Consequently, the amendment sought for by the petitioner herein in I.A. No. 91 of 2015 in O.S. No. 19 of 2013 stands allowed. This Civil Revision Petition stands ordered, accordingly. Consequently, connected miscellaneous petition is closed. No costs.

09.01.2019

maya

Index : Yes/No

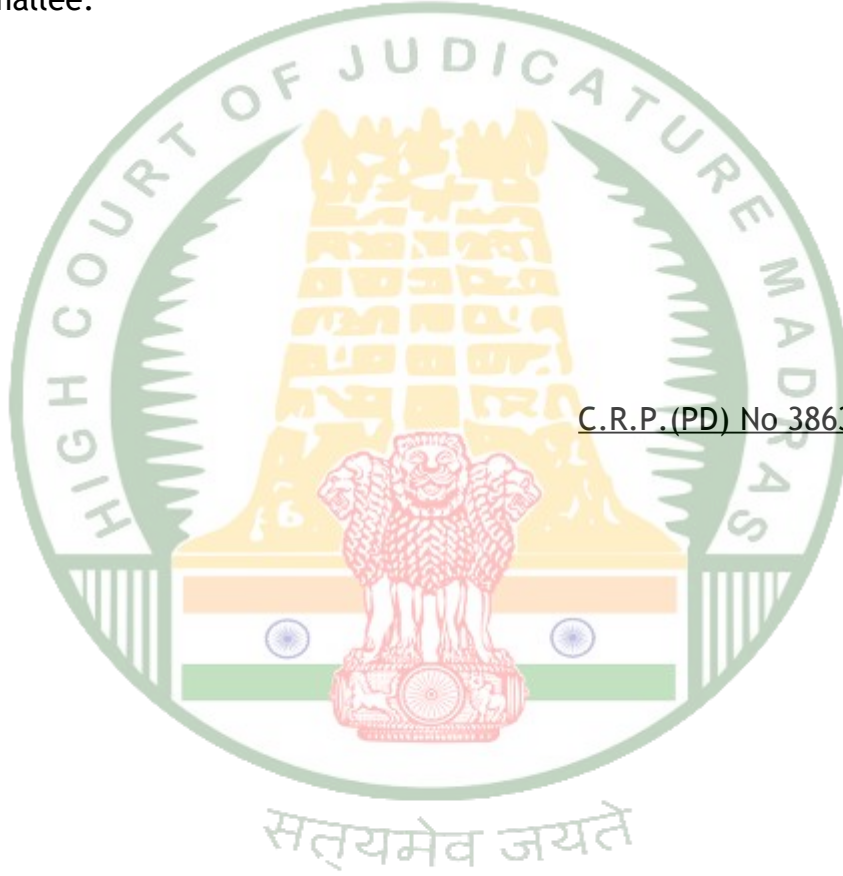
Internet : Yes/No

M.S.RAMESH, J.

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To

1.The III Additional District Court Judge,
Poonamallee.



C.R.P.(PD) No 3863 of 2015

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