

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2019

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P(NPD).No.342 of 2016

&

C.M.P.No.1785 of 2016

1.Mrs.Rajeswari

2.Mrs.Umasankari

...Petitioners

Vs

1.P.Srinivasan

2.P.Sambandam @ Sambanda Moorthy

3.S.Saravanan

4.S.Karthikeyan

5.Manjula

6.Sathiya

7.Santhi

8.Suriya

9.S.Santhamurthy

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10.P.Thamizarasan

11.S.Susila

12.A.Murugan

13.M.Ravichandran

14.S.Ethiraj

15.M.Aashaparveen

16.R.Balaji

17.S.Rajagopal

18.E.Anbarasu

19.D.Pandiyammal

20.K.Kumutha

21.B.Rajendrakumar

22.Sakthivel

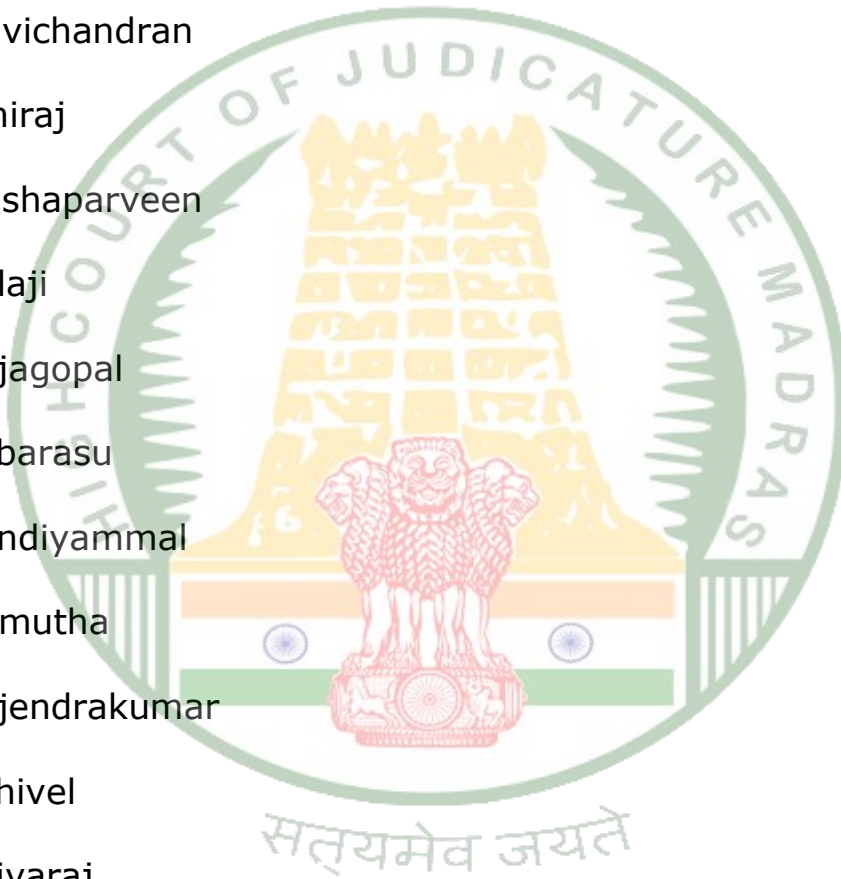
23.E.Shivaraj

24.G.Nithiyanandam

25.S.Vijayakumar

26.Mr.Prema

27.G.Vasantha



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28.R.Manivannan

29.Mrs.M.Aruna

30.R.Usha

31.V.Renukambal

32.G.Prabu

33.K.Amul

34.M.Ramalingam

35.G.Kumaran

36.R.Sundaresan

37.R.Sridharan

38.S.Anandakumar

39.S.Sathi

40.S.Prabakaran

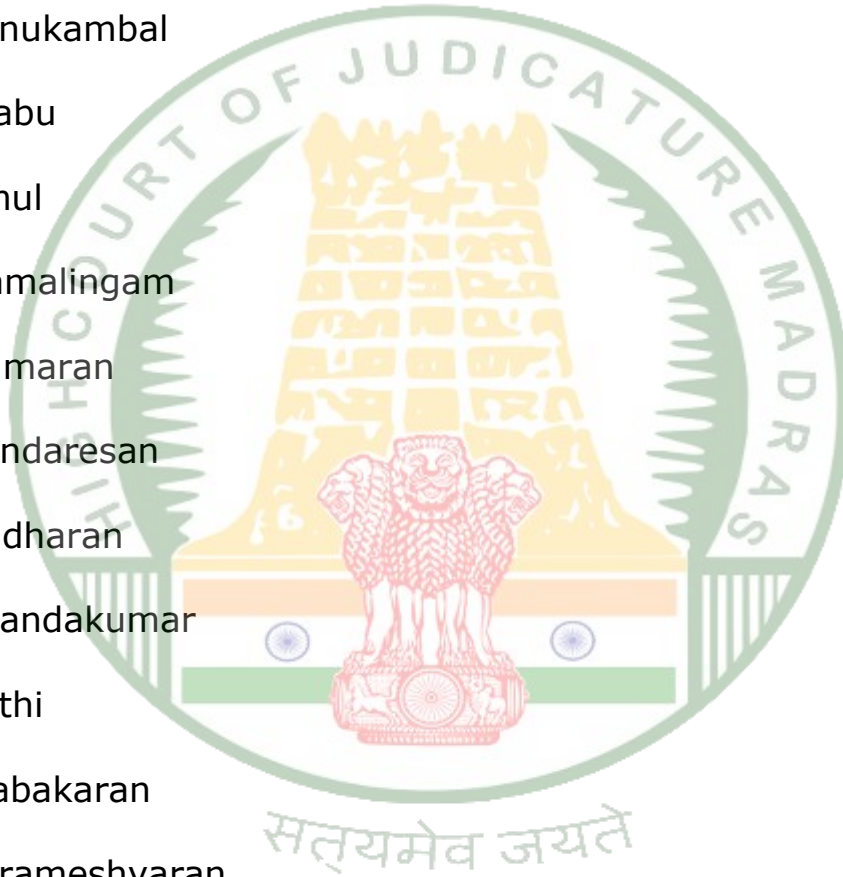
41.D.Parameshvaran

42.J.Premabai

43.R.Ushabai

44.K.Bharathi

45.V.Selvi



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46.K.Uma

47.K.Prema

48.V.Govindarasalu

49.R.Sundaresan

50.R.Ramesh

51.S.Ravikumar

52.S.Bhupathy

53.S.Z.Imdad

54.G.Koteshwari

55.M.Murugan

56.M.R.Subramanian

57.R.Mani

58.Durai Vengatesan

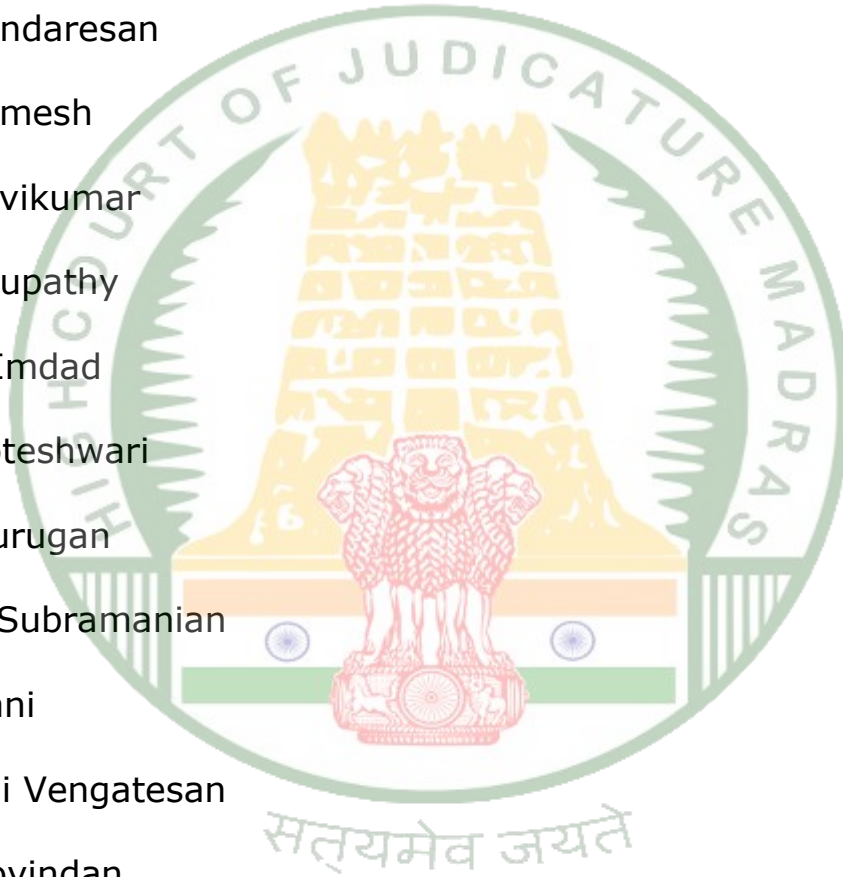
59.M.Govindan

60.M.Raman

61.P.Sundar

62.Mrs.Abinaya

... Respondents



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Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India against the plaint docket order dated 12.08.2015 passed in unnumbered O.S.S.R.No.4575 of 2015 on the file of the Principal District Court, Thiruvannamalai.

For Petitioners : Mr.K.G.Vasudevan

For Respondents 1 & 2: Mr.V.Prakash Babu

For Respondents 3, 9,
11 to 16, 18, 21, 22,
25, 26, 30, 31, 33, 36,
37, 39, 46 to 51, 54,
58, 60 to 62. : No Appearance

For Respondents 10,
17, 19, 20, 23, 24, 27
to 29, 32, 34, 35, 38,
40 to 45, 52, 53, 55
to 57 & 59 : Not ready in Notice

ORDER

सत्यमेव जयते

The above Civil Revision Petition is filed challenging the rejection of the plaint at the numbering stage on the ground that the prayer has been corrected when the said plaint was returned for certain compliances. The order reads as follows:

*"A careful study of the prayer of the Plaintiffs in this
plaint would reveal the fact that the Plaintiffs did not
mention the Court by which the judgment and decree was
passed in O.S.No.173/2002, dated 03.10.2002 and also it
reveal that fact that a suit was being filed by the Plaintiff
as a fresh case as to decide the matter by this court, which
was already decided by a court as admitted by the
Plaintiffs themselves in O.S.173/2002 not mentioning the
court in which the suit was decided. And also the Other
prayers namely the reliefs could be the consequential relief
to the relief of first item as mentioned in the plaint itself.
Hence the court decided on a considered view that there is
not prima fascia case as to decide by this court by taking
plaint into file by this court. Because it was the case Of
Plaintiffs themselves that the judgment and decree passed
in O.S.173 of 2002 without mentioning the court by which
the judgment and decree was passed to be declared as not
valid in a subsequent suit as mentioned in the plaint.
Necessarily it is common prudence that if any suit was*

decided by any court as mentioned by the Plaintiffs themselves, an appeal would be preferred if any party is having grievance over the decision of court against the impugned judgment. But curiously, the Plaintiffs herein had filed the suit before this court for setting aside the judgment and decree without mentioning the court by which the judgment and decree was passed. It is pertinent to note down after 'Return' endorsement made as stated above, the prayer in the plaint namely the 1st prayer was modified by using whitener without getting permission of the court, i.e the prayer was altered without following the procedure. Hence, this court with left no option but to reject the plaint herein. Accordingly, the same is rejected."

2.The concept of amendment as contemplated under the provisions of Order VI Rule 17 of the Code of Civil Procedure would come into play when the suit has been taken on file and has been registered then it becomes the property of the Court and any amendment can be affected only by way of a petition seeking to amend the plaint. In the instant case the suit is still at the threshold

where it awaits numbering.

3.The order of the learned Judge stating that the correction has been taken place without the permission of the Court is totally erroneous and the learned Judge has totally misread the provisions of amendment as contemplated under the Code of Civil Procedure. The order in unnumbered O.S.S.R.No.4575 of 2015, on the file of the Principal District Court, Thiruvannamalai is set aside. The learned Judge shall number the suit if it is otherwise in order.

The Civil Revision Petition is allowed on the above lines. There shall be no order as to costs. Consequently connected Civil Miscellaneous Petition is also closed.

सत्यमेव जयते

24.04.2019

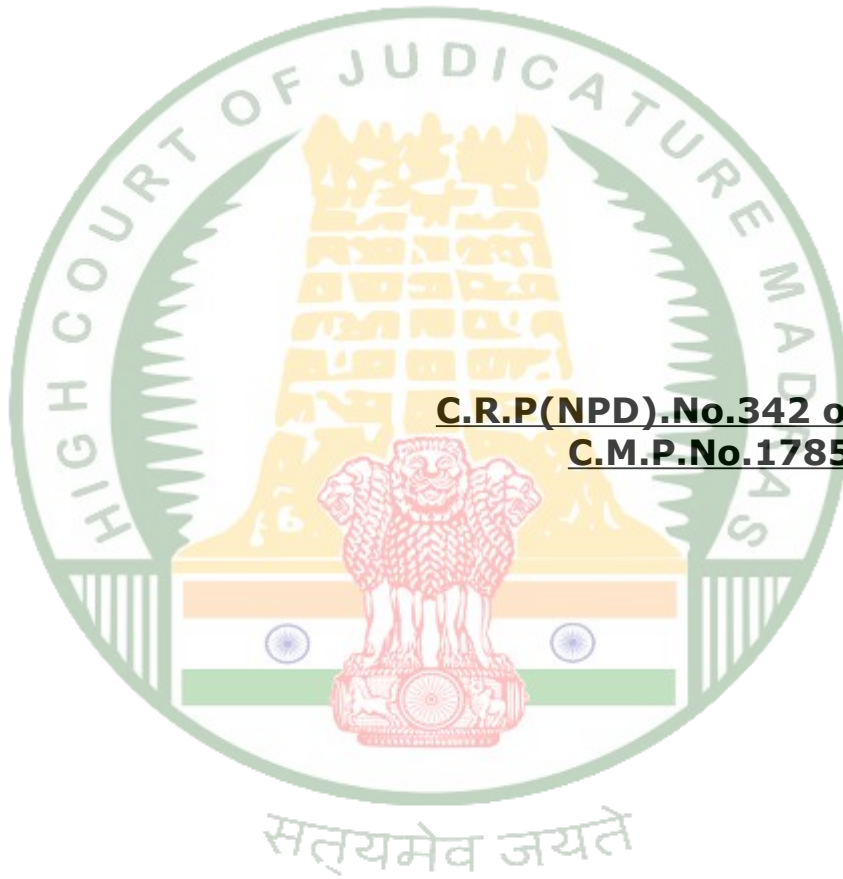
kan
Index : Yes/No
Speaking order/non-speaking order

To,
The Principal District Judge,
Thiruvannamalai

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P.T.ASHA, J.,

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C.M.P.No.1785 of 2016**

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