

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.02.2019

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(NPD).Nos.4274 and 4276 of 2018
and
C.M.P.No.23428 of 2018

1.Mangai
2.Mani
3.Jayalakshmi
4.Umadevi ...Petitioners in both petitions

Vs

1.S.Kamaladevi
2.S.Ezhilan
3.S.Joshiba
4.Sanjai ...Respondents in both petitions

COMMON PRAYER: Civil Revision Petitions are filed under Article 227 of Constitution of India to set aside the fair and decretal order dated 20.09.2018 made in I.A.Nos.1477 and 1478 of 2018 in O.S.No.265 of 2010 on the file of the learned District Munsif, Madurantakam.

For Petitioners : Mr.M.S.Subramanian

For Respondents: No appearance for R1 to R4

ORDER

The above Civil Revision Petitions are filed challenging the dismissal of the applications filed by the plaintiffs/revision petitioners in I.A.Nos.1477 and 1478 of 2018 in O.S.No.265 of 2010 on the file of the learned District Munsif, Madurantakam.

2.The respondents though they have been served, they have not chosen to enter appearance through their counsel or pleader. Therefore, this Court has proceeded to hear the revision petitioners and pass orders.

3.The facts in brief are as follows:

The revision petitioners have filed the suit O.S.No.265 of 2010 on the file of the learned District Munsif, Madurantakam, for a permanent injunction with reference to the suit schedule property. The suit schedule property has been described as a house site in Survey No.235/1, measuring an extent of 0.06 ½ cents within specified boundaries. After the evidence in the suit

was completed, the revision petitioners came forward with the present applications in I.A.No.1477 of 2018 seeking to reopen the evidence on the side of the plaintiff and in I.A.No.1478 of 2018 seeking to amend the schedule of property by only adding the words "New Sub-Division Survey Nos.235/6 and 235/7" at the end of the schedule description, namely, after the words "Kuppan".

4.No doubt, the said applications are filed belatedly though the defendants have pointed out this anomaly in the Written Statement which has been filed as early as in 20.01.2011. However, considering the fact that the boundaries do not change and the fact that the original survey number continues as 235/1 and only an addition has been at the end of the survey number no prejudice is likely to be caused to the respondents/defendant. The learned District Munsif, Madurantakam, ought to have allowed the amendment petition which does not really change either the subject matter or the nature of justice.

The orders of the learned District Munsif, Madurantakam, in I.A.Nos.1477 and 1478 of 2018 in O.S.No.265 of 2010 are set aside and these Civil Revision Petitions are allowed. Considering the fact that the suit is on the argument stage before the trial Court and there would be no serious caused, the learned District Munsif, Madurantakam, is directed to dispose of the suit within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

13.02.2019

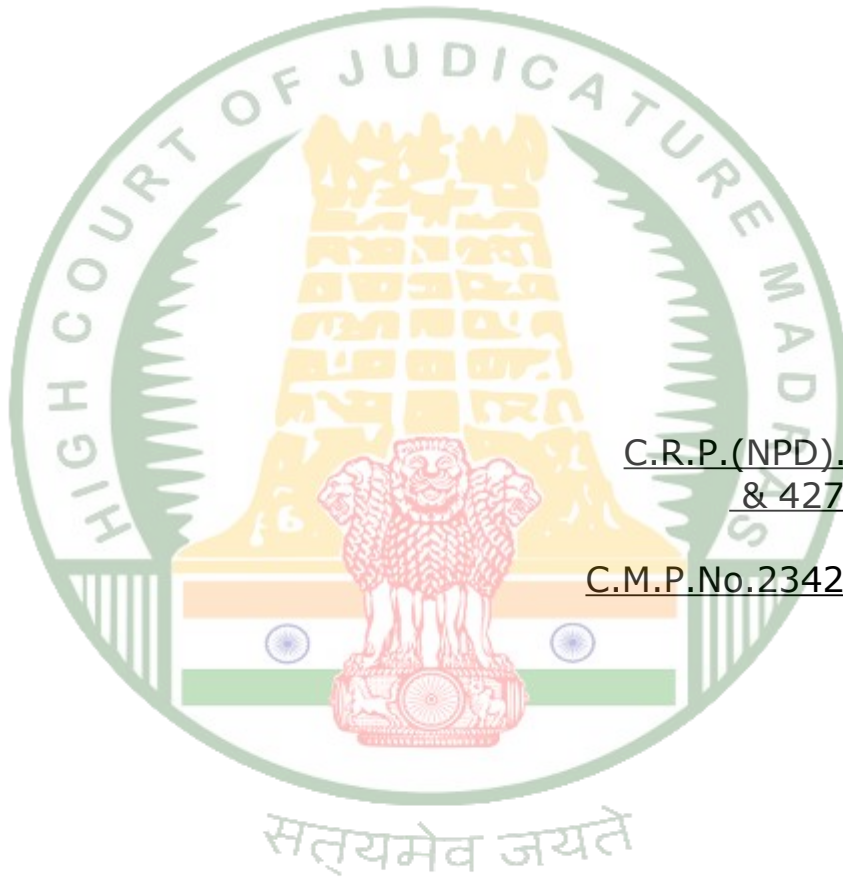
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To
The District Munsif,
Madurantakam.

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P.T. ASHA, J,

mps



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