

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.No.2201 of 2018
and

C.M.P.No.13889 of 2018

1.Tharabai
2.Shanmugasundaram
3.Muthukrishnan ... Petitioners

Vs.

Amaravathi (died)
1.Deivanai ammal
2.Kamala
3.Indira
4.Dhanalakshmi
5.Ganapathi
6.Velmurugan
7.Bhuvaneswari
8.Thilakarasi
9.Bavani
10.Anandi
11.Jaya
12.Rajeswari
13.Geetha
14.Amsavalli
15.Savithri
16.Kalaiselvi
17.T.K.Ravi
18.M.U.G.Thirumavalavan
19.R.Rajmohan
20.K.Karthikeyan
21.K.Tamizharasan
22.V.T.Raja
23.Saichandra
24.Natarajan
25.Santhi
26.Nagarajan
27.Raj

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of
Constitution of India, praying to set aside the fair and

decreetal order passed in I.A.No.842 of 2014 in O.S.No.232 of 2012 dated 21.08.2015 on the file of Additional District Judge, Chidambaram.

For Petitioners : Mr.S.Veeraraghavan

For Respondents : Mrs.R.Meenal

O R D E R

This matter is taken up for hearing through Video-Conferencing.

2. The 11th defendant in O.S.No.232 of 2012 has come up with this Revision challenging an order allowing application seeking amendment of the plaint to include a property as item No.5 in the suit. The suit is one for partition of the estate of late Vridhammal. The parties are claiming under Vridhammal. The 11th defendant would claim that he has purchased the property which is to be added as item No.5 from Vridhammal in the year 1974. The plaintiffs would contend that the item No.5 is inalienable since it is a Trust property.

3. The amendment sought for is to include the property and for the relief of declaration that it is the Trust property. The application came to be allowed by the trial court by its order dated 21.08.2015. The said order is sought to be challenged almost after expiry of 3 years in this Revision which was filed on 12.07.2018. Though there is no period of limitation fixed for Revision under Article 227, it being a constitutional remedy, the parties will have to show that there was no latches on their part in resorting to the constitutional remedy. There is no explanation for the delay. Therefore, revision is liable to be rejected solely on the ground of latches.

4. However, even on merits the suit was filed in the year 2012, the application for amendment was filed even before the written statement filed in the suit. The prayer sought for is inclusion of the property and inclusion of a prayer. It will not change either the nature of the suit or the cause of action. The Hon'ble Supreme Court and this court have consistently held that a pre-trial amendment should be considered liberally.

5. Therefore, I do not see any merit in the case and the Revision fails and it is accordingly dismissed. No costs. consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

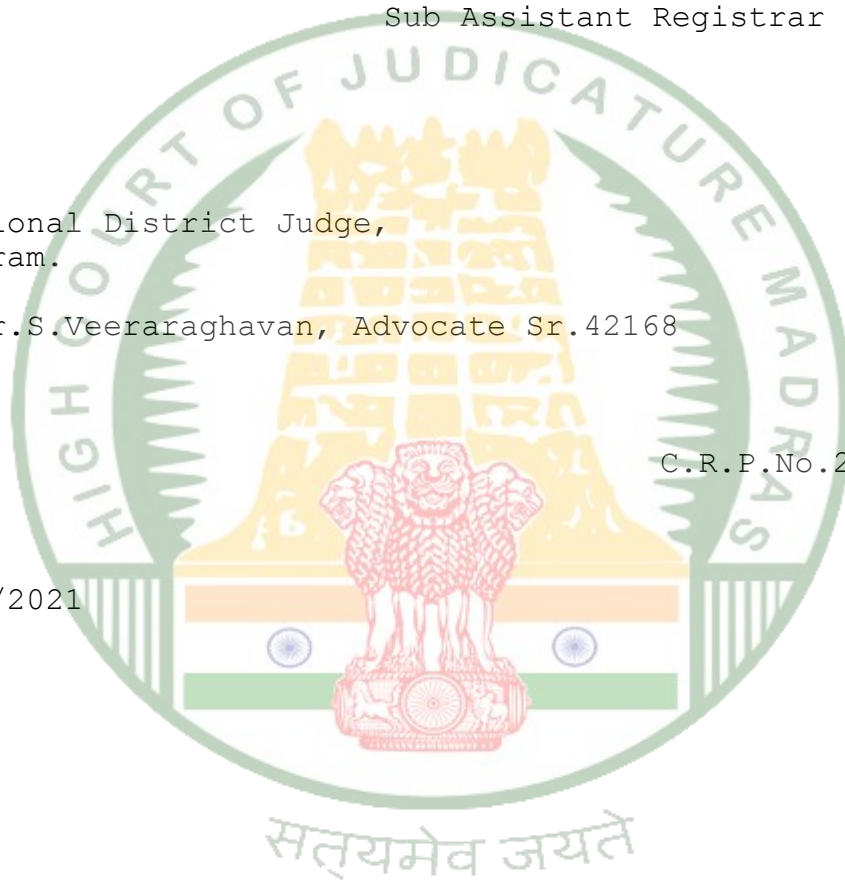
To

The Additional District Judge,
Chidambaram.

+1cc to Mr.S.Veeraraghavan, Advocate Sr.42168

C.R.P.No.2201 of 2018

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