

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 17.12.2020

PRONOUNCED ON : 22.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CRP(PD)No.2538 of 2016

CMP.No.

(Through Video Conferencing)

Matheshwai

Petitioner

Vs

Periyasamy

Respondent

Prayer:- This Civil Revision Petition has been filed, under Section 227 of the Constitution of India, to set aside the order dated 16.11.2015, made in IA.No.336 of 2015 in OS.No.101 of 2012, by the Sub Court, Athur.

For Petitioner : Mr.S.F.Mohamed Yousuf

For Respondent : No Appearance

ORDER

1. This Civil Revision Petition has been filed, to set aside the order dated 16.11.2015, made in IA.No.336 of 2015 in OS.No.101 of 2012, by the Sub Court, Athur.
2. The facts of the case, in a nutshell, are that the Defendant is the Petitioner and the Respondent is the Plaintiff. The suit was filed for specific performance or in the alternative, for refund of the advance sale consideration with interest. In the suit, the Defendant has filed the present

application to amend the paragraph 12 of the written statement. By the impugned order, the said application was dismissed. Hence, this Civil Revision Petition has been filed.

3. This court heard the learned counsel for the Petitioner and also carefully perused the materials placed on record.
4. The petitioner has sought to amend the written statement, by deleting paragraph 12 and including the particulars of amendment stated in the petition. Reliance is placed on **2007 5 SCC 602 (Usha Balashaheb Swami and others Vs. Kiran Appaso Swami and others)**
5. It is seen from the available records that the Petitioner has averred certain averments in paragraph 4. In the impugned order, Trial Court has stated that the trial had already commenced and proof affidavit of the Plaintiff has been filed and that PW.1 has been examined and Ex.P1 to Ex.P3 were marked on the side of the Plaintiff and that at the time when the matter was posted for cross examination of the Defendant, the present application has been filed and that the Petitioner has already taken the defenses what are all available to her in the written statement and that if at all she has every right to file additional written statement and hence, the amendment cannot be allowed at this stage. This Court is of the view that the present application has been filed belatedly and there is no infirmity in the impugned order, which warrants interference by this Court.

6. In fine, this Civil Revision Petition is dismissed. No costs.

22.12.2020

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
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To

1. The Sub Court, Athur

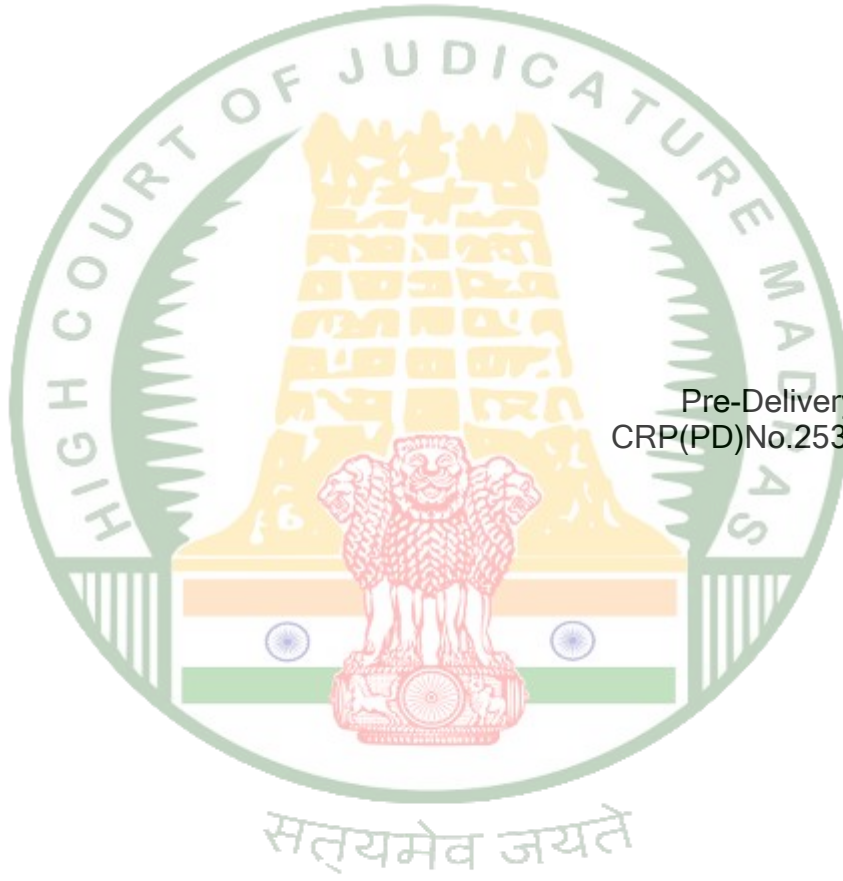


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CRP(PD)No.2538 of 2016

A.A.NAKKIRAN, J.

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Pre-Delivery Order in
CRP(PD)No.2538 of 2016

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22.12.2020