

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.R.P.(P.D).No.1723 of 2019
and C.M.P.No.11015 of 2019

Krishnan (died)
Balaji

...Petitioner

Vs

1.P.Ragavan
2.Venkattamma
3.Kanta
4.Santhi

...Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order and decree made in I.A.No.474 of 2018 in O.S.No.176 of 2010 dated 24.01.2019 on the file of the District Munsif, Tiruttani.

For Petitioner : Mr.K.Manikandan

For Respondents : Mr.P.Seshadri for R1
No appearance for R2 to R4

ORDER

This Civil Revision Petition has been filed to set aside the order and decree made in I.A.No.474 of 2018 in O.S.No.176 of 2010 dated

24.01.2019 on the file of the District Munsif, Tiruttani.

2.The revision petitioner is the 2nd defendant in the suit.

3.The suit was filed by the respondents herein for the relief of permanent injunction with regard to suit schedule properties.

4.The suit properties in Item Nos.1 and 2 are originally classified as dry S.No.143/66. After grama natham survey, the suit properties were assigned with Gramanatham S.No.296/13. In order to complete the adjudication, the revision petitioner wants to amend the suit property Survey no as grama natham New Survey No.296/13 in the place of old Survey No. i.e., 143/66. Thereby the 1st respondent herein has filed the I.A.No.474 of 2018 in O.S.No.176 of 2010 to amend the survey no and the boundaries.

5.The trial Court after considering the arguments of the learned counsel for the parties and based on records allowed the petition in I.A.No.474 of 2018 in O.S.No.176 of 2010 dated 24.01.2019 on the file of the District Munsif, Tiruttani.

6.Aggrieved by the order of the trial Court dated 24.01.2019, the petitioner herein has filed the present revision petition.

7.The learned counsel for the petitioner challenged the order, on

the ground that the amendment was sought after examination of parties to the suit that too, to fill up the lacunae and further stated that the respondents wants to enlarge the extent of schedule mentioned property by altering the Survey No. and boundaries and pleaded to allow the Civil Revision Petition.

8.The learned counsel for the respondents supported the order of the trial Court. He would further submit that since there will not be any change in cause of action of the suit, the trial Court has rightly allowed the I.A.No.474 of 2018 in O.S.No.176 of 2010 dated 24.01.2019 with cost of Rs.500/- to the petitioner herein.

9.Heard the learned counsel for the petitioner and the learned counsel for the 2nd respondent and also perused the materials on record.

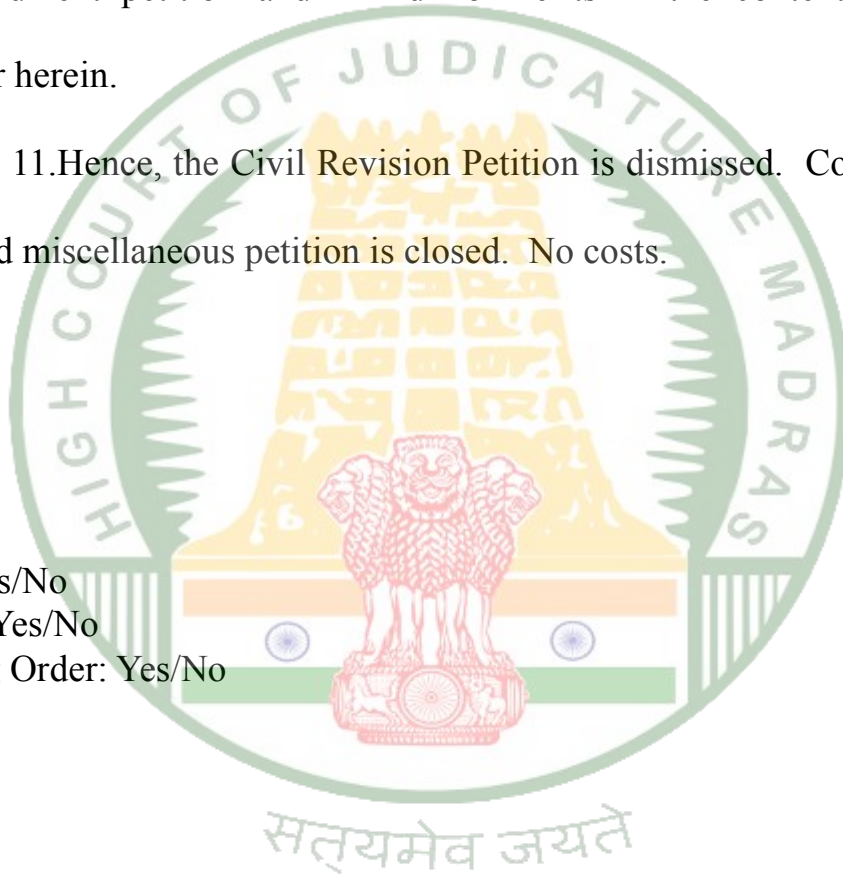
10.Considering the submission of the learned counsel for the parties, I am of the opinion that the suit is for permanent injunction. The suit property Survey No, has now classified as grama natham Survey No.296/13 in the place of Survey No.143/66 for item Nos.1 and 2 of the suit property, the amendment sought by the petitioner was rightly allowed by the trial Court. Since the suit is for permanent injunction the relief has to be granted only by proving the possession. Further, amending the Survey No.

will not change the nature of the suit and will not introduce a new cause of action. The application for amendment is bonafide. The amendment will not cause any prejudice to other side. The trial Court has rightly allowed the amendment petition and I find no merits in the contention of the petitioner herein.

11.Hence, the Civil Revision Petition is dismissed. Consequently connected miscellaneous petition is closed. No costs.

Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No
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08.12.2020

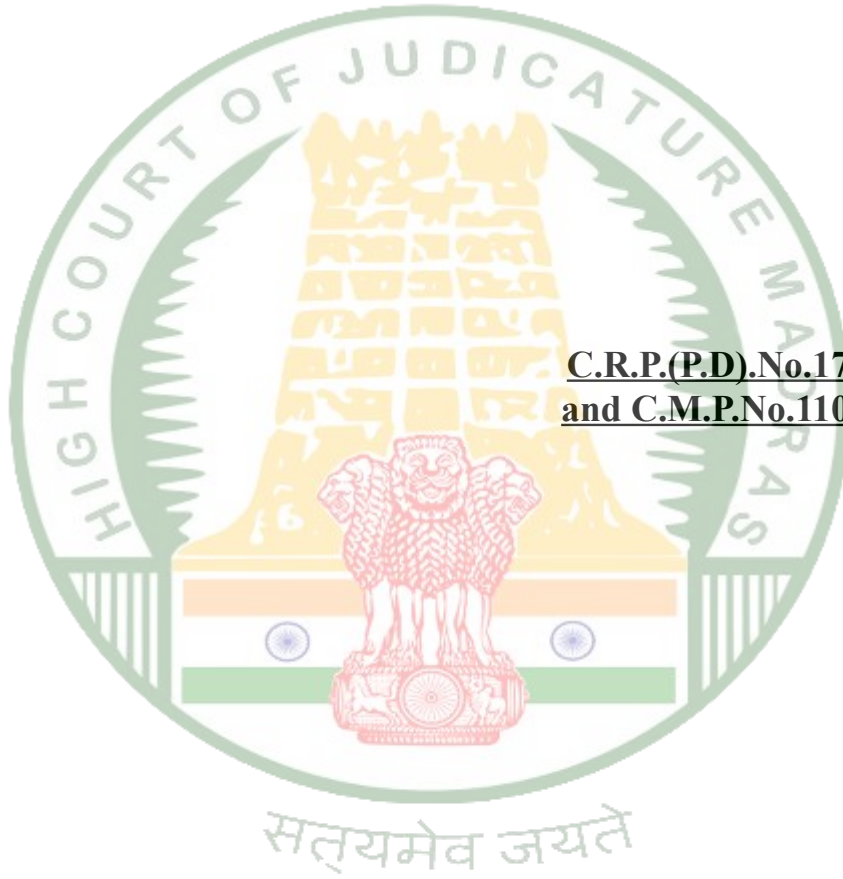


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V.SIVAGNANAM.J,

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