

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.PD.No. 2931 of 2015

and

MP.No.1 of 2015

Chellammal (died)

1. Rukmani
2. Chinnusamy
3. Deivanai
4. Muthulakshmi
5. Sureshkumar
6. Jagadeeshkumar

... Petitioners

Vs.

1. Pappathi
2. Selvamurugan
3. Suganthi
4. Sundaram
5. Sumathi
6. Minor Banumathi
7. Rajeswari
8. Akilandeswari
9. Eswaramoorthi
10. Ambika
11. Chinnasamy
12. Manial
13. Balan
14. Dhanalakshmi
15. Jayamurugan
16. Sigamani @ Karuppannan

... Respondents

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decretal dated 19.02.2015 made in I.A.No.688 of 2014 in O.S.No.187 of 2010 on the file of the Subordinate Judge, Perundurai by allowing this Civil Revision Petition.

For Petitioners : Mr.C.Munusmay

For Respondents : No Appearance

ORDER

This Civil Revision Petition is directed as against the fair and decretal order passed in I.A.No.688 of 2014 in O.S.No.187 of 2010 dated 19.02.2015 on the file of Subordinate Judge, Perundurai, thereby, dismissing the petition for amendment to include the properties in the plaint.

2. The petitioners are the plaintiffs. They filed a suit for partition and separate possession. The petitioners originally filed the suit in O.S.No.61 of 2009 on the file of the District Court, Erode and thereafter, it was transferred to the Sub Court, Perundurai. After examination of P.W.1, the

petitioners filed application to include certain properties for partition. The Court below dismissed the same on the ground that the trial Court framed issues in the suit and the suit is bad for partial partition. The issues were framed in the year 2011 and the present petition has been filed only in the year 2014. Therefore, the petitioners are not diligent in prosecuting the case and dismissed the petition for amendment.

3. The learned counsel for the petitioners submitted that admittedly the suit was for partition and the plaintiffs left out some of the properties. In fact, the first plaintiff died and her legal heirs were impleaded as the plaintiffs before the trial Court on 03.07.2012. Only thereafter, they came to knowledge about the left out properties and filed the petition.

4. Considering the above submission, this Civil Revision Petition is allowed and the order passed in I.A.No.688 of 2014 in O.S.No.187 of 2010 dated 19.02.2015 is set aside. The trial Court is directed to complete the trial within a period of six months from the date of receipt of a copy of this order. Consequently, the connected Miscellaneous Petition is closed. No costs.

04.02.2021

Speaking/Non-speaking order

Index : Yes/No

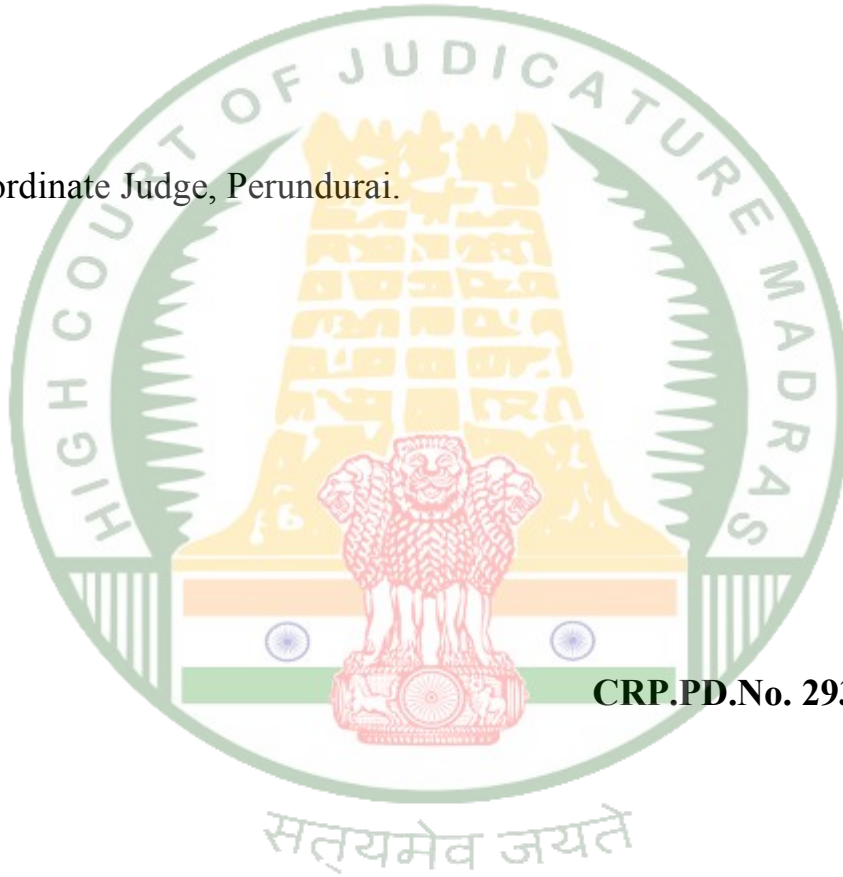
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G.K.ILANTHIRAIYAN,J.

Kv

To

The Subordinate Judge, Perundurai.



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