

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 05.01.2021**

**CORAM:**

**THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN**

**C.R.P.(P.D).No.3456 of 2015**  
**and M.P.No.1 of 2015**

Nallusamy ...Petitioner

Vs

Palaniammal ...Respondent

**Prayer:** Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and final order dated 05.06.2015 made in I.A.No.1022 of 2013 in O.S.No.67 of 2012 on the file of the District Munsif Court, Sankari.

For Petitioner : Ms.Zeenath Begum

For Respondent : Mr.P.Jagadeesan

**ORDER**

This Civil Revision Petition has been filed as against the fair and final order dated 05.06.2015 made in I.A.No.1022 of 2013 in O.S.No.67 of 2012 on the file of the District Munsif Court, Sankari, thereby dismissing the petition filed by the petitioner for filing additional written statement in

the suit.

2.The learned counsel for the petitioner would submit that the petitioner sought to file the additional written statement, only for an explanation and expansion of the written statement which was already filed. She further submitted that the petitioner constructed a terraced house bearing Door Nos.325 to 328 in Survey No.350/1S. But due to an inadvertent error he wrongly stated in the earlier written statement as Survey No.350/1D. Except the said correction, no other new fact was introduced in the additional written statement. Even then the Court below failed to consider the above facts and dismissed the same.

3.Per contra, the learned counsel for the respondent would submit that the respondent herein filed the suit for permanent injunction. In the 1st written statement filed by the respondent herein, he categorically stated that though he purchased two items of vacant site measuring 792 sq.ft and 961 sq.ft in S.No.350 of Vaigundam Village, under a registered sale deed dated 11.02.1992, later is was subdivided as S.No.350/1E & 350/1S. After purchasing the same, patta also effected in the name of the respondent. Thereafter, the petitioner constructed the house and shop in Survey

No.350/1S. He also constructed a terraced house in S.No.350/1E. Now the petitioner come forward with new set of facts that he constructed the house in S.No.350/1D. Further he would submit that the petitioner had taken a different stand that the respondent and her husband agreed to sell the land comprised in S.No.350/1D ad measuring 950 sq.ft, in favour of the petitioner herein for the total sale consideration of Rs.43,000/-. In fact he paid a sum of Rs.33,000/- as per the oral agreement dated 25.03.2001. Therefore, the petitioner herein has completely introduced a new cause of action in the additional written statement and as such the trial Court has rightly dismissed the petition filed by the petitioner herein.

4.Heard both sides and perused the materials available on record.

5.The petitioner herein is the defendant in suit O.S.No.67 of 2012 on the file of the District Munsif, Sankari. The respondent filed the suit for permanent injunction in respect of the suit schedule property. The petitioner herein filed the written statement stating that he purchased two items of vacant land site measuring 792 sq.ft and 961 sq.ft in S.No.350 of Vaigundam Village, under a registered sale deed dated 11.02.1992, later is was subdivided as S.No.350/1E & 350/1S. In both the survey numbers, he

constructed two houses and the Door Nos.325, 326, 327 and 328. At this juncture, the petitioner herein again filed an application to receive additional written statement for the reason that the documents were held up in the bank custody at the time of filing the 1st written statement. Therefore, he was not able to file a proper written statement. Now he received entire documents from the bank and found that the house was constructed in Survey No.350/1D instead of 350/1E. As rightly pointed out by the learned counsel for the respondent, the petitioner herein has introduced a new fact that he intended to purchase the property comprised in Survey No.350/1D for the total sale consideration of Rs.43,000/-. In pursuant to the same, he also paid a sum of Rs.33,000/- by oral agreement dated 25.03.2001. The facts are completely new as per the additional written statement and the petitioner introduced new set of facts, which is not relevant to the earlier written statement. Therefore, the trial Court rightly dismissed the petition for filing additional written statement filed by the petitioner. Further, this Court does not find any infirmity or error in the order of the trial Court.

6.In view of the above, the Civil Revision Petition is dismissed.

No costs. Consequently connected miscellaneous petition is closed.

**05.01.2021**

Index: Yes/No  
Internet: Yes/No  
Speaking Order: Yes/No  
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To  
The District Munsif Court, Sankari.

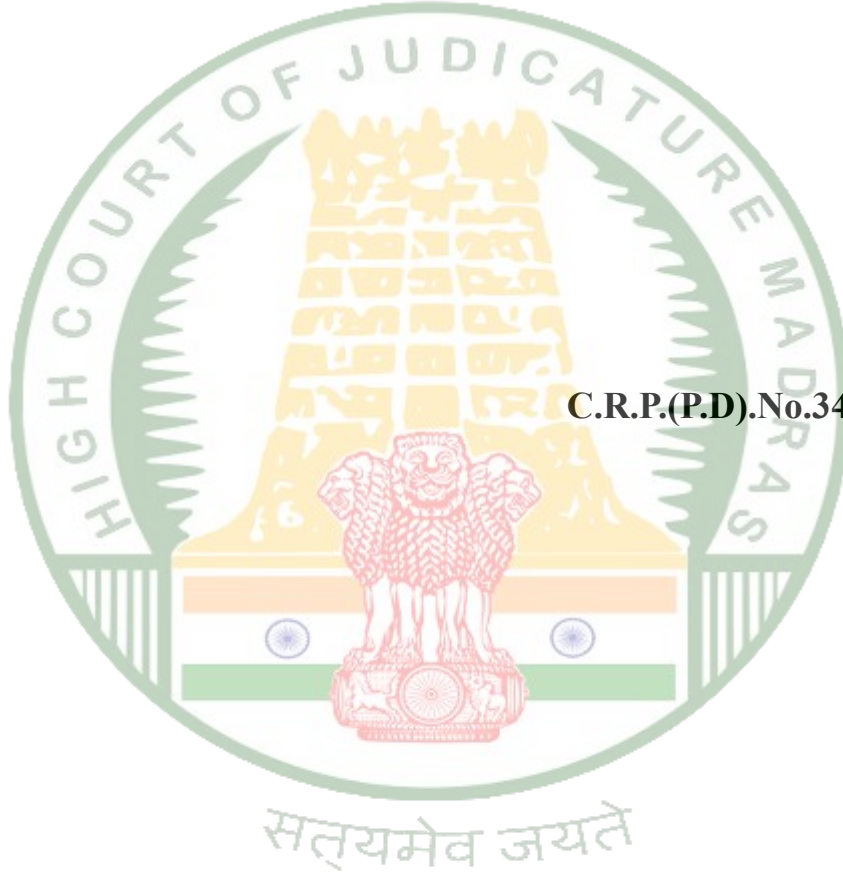


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**G.K.ILANTHIRAIYAN.J,**

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