

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2021

CORAM

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

CRP.PD.No. 4838 of 2015

and

MP.No.1 of 2015

1. Jainabee

2. Bhanu

... Petitioners

Vs.

Kathuayub @ Ayub

... Respondent

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decretal order dated 18.06.2015, made in I.A.No.480 of 2015 in O.S.No.198 of 2012, on the file of the District Munsif Court at Palacode, and allow the above C.R.P.

For Petitioners : C.Prabakaran

For Respondent : No Appearance

ORDER

This Civil Revision Petition is arising out of the fair and decretal order passed in I.A.No.480 of 2015 in O.S.No.198 of 2012 dated 18.06.2015 on the file of the District Munsif Court, Palacode. thereby, dismissing the petition filed by the petitioners for amendment of plaint.

2. The petitioners are the plaintiffs. They filed the said suit as against the respondent herein for declaration, recovery of possession and mandatory injunction. They claimed title over the property in the original plaint. The suit property is vacant site and classified as the Natham Poramboke. It was occupied by their father 35 years before and thereafter constructed house and living there. While pending the suit, the petitioners filed a petition for amendment with the averment that the suit property, which was orally purchased from Hussainbee Ammal in the year 1985. Whatever, the amendment sought for by the plaintiff that it has to be proved before the trial Court to prove their case. The trial Court dismissed the suit for the reason that the amendment sought for by the petitioners would change the character of the suit.

3. Though notice was served on the respondent and the name is also printed in the cause list, no one appeared on behalf of the respondent by person. Heard the learned counsel for the petitioner.

4. On a perusal of the records, the amendment sought for by the petitioners are how to say the plaintiffs traced title over the property. As stated supra, the petitioners have to prove their case and as such, it would not change the character of the suit and also cause of action of the suit. It would not also cause any prejudice to the respondent herein.

5. In view of the above discussion, this Civil Revision Petition is allowed and the order passed in I.A.No.480 of 2015 in O.S.No.198 of 2012 dated 18.06.2015 is set aside. Consequently, the connected Miscellaneous Petition is closed. No costs.

02.02.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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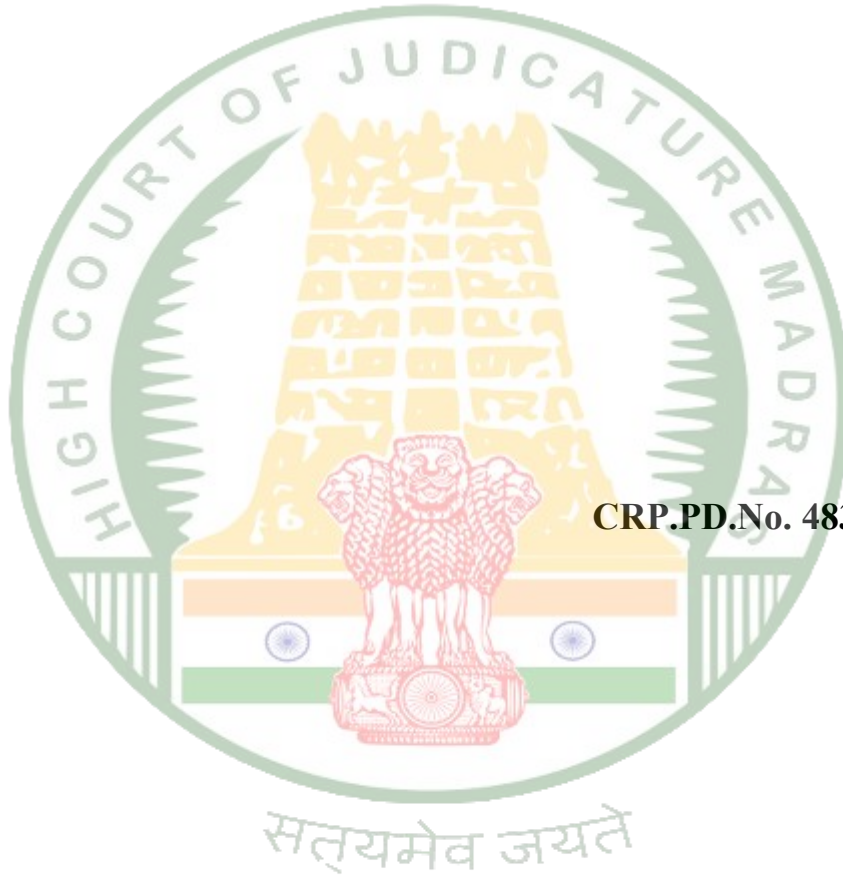
To

The District Munsif Court, Palacode.

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G.K.ILANTHIRAIYAN,J.

Kv



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