

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2021

CORAM

THE HON'BLE Mr. JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(PD) No.1711 of 2016

and

CMP.No.9139 of 2016

VE.A.Annamalai Chettiar

Memorial Trust

by its Trustee

VE.A.VEE.Vairavan Chettiar

Visalam Complex, Town Extn.

Mayiladuthurai Town,

Nagapattinam District.

... Petitioner

Vs.

Anthony Ammal,

W/o.Periyanayagam

Mela Theru

Erukkur Village,

Sirkali Taluk,

Nagapattinam District.

... Respondent

Prayer:-

Civil Revision Petition filed under Section 227 of The Constitution of India, praying to set aside the order in I.A.No.363 of 2015 in O.S.No.43 of 2012 dated 22.04.2016 on the file of the District Munsif, Sirkali and allow the Civil Revision Petition.

For Petitioner : Mr.A.Muthukumar

For Respondent : Notice served. No Appearance

ORDER

This Civil Revision Petition is directed as against the order in I.A.No.363 of 2015 in O.S.No.43 of 2012 dated 22.04.2016 on the file of the District Munsif, Sirkali thereby, dismissing the petition seeking amendment of plaint.

2. The petitioner is the plaintiff and the respondent is the defendant. The petitioner filed a suit for recovery of possession in respect of the suit properties. While pending the suit, the petitioner filed a petition for amendment of plaint in respect of the boundaries of the suit properties. Resisting the same, the respondent filed a counter saying that the trial already commenced and the amendment cannot be permitted post trial. The Court below dismissed the petition only for the reason that the mistake committed by the petitioner is not typographical error and also stated that there is no *bona fide* reason on the part of the petitioner for filing the petition belatedly.

3. The learned counsel for the petitioner would submit that the

respondent is claiming tenancy right in respect of the suit properties when his grand father himself handed over the possession of the property after terminating the lease. Thereafter, the respondent trespassed into the property and as such, the petitioner was constrained to file a suit for recovery of possession. In fact, the respondent categorically admitted that the title over the suit property is in favour of the petitioner, he is also paying the rent to the agent of the plaintiff. Therefore, the amendment sought for by the respondent would not cause any prejudice and would not change the nature of the suit as he would not introduce new property. Further, the survey number and the extent of the property are one and the same and due to inadvertence only boundaries were wrongly mentioned.

4. Though notice has been served and name printed in the cause list, no one appeared on behalf of the respondent in person or through video conferencing.

5. The petitioner is the plaintiff and the respondent is the defendant. The petitioner filed a suit for recovery of possession in respect of the suit properties. While filing the suit, boundaries of the suit schedule properties were wrongly mentioned. Admittedly, as far as the

survey number and the extent of the properties are one and the same and the petitioner filed the petition for amendment only in respect of the boundaries.

6. In view of the above, this Civil Revision Petition is allowed and the order passed in I.A.No.363 of 2015 in O.S.No.43 of 2012 dated 22.04.2016 on the file of the District Munsif, Sirkali, is hereby set aside. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

17.03.2021

Index : Yes/No

Speaking order/Non-speaking order
kmi

To

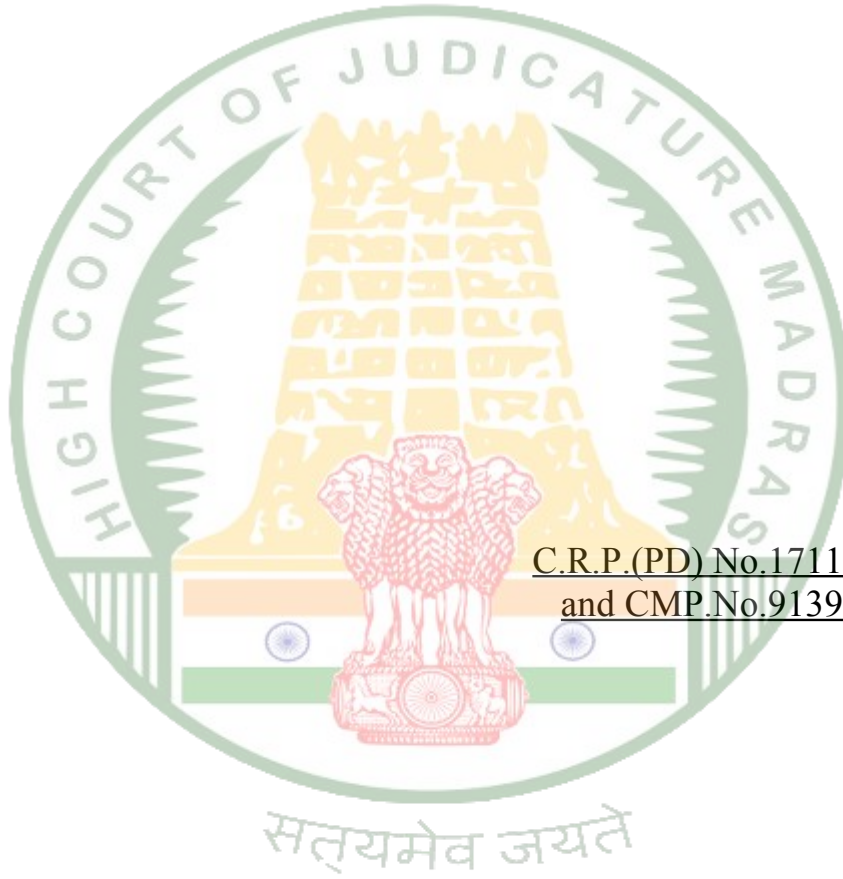
1. The District Munsif,
Sirkali.

2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.

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G.K.ILANTHIRAIYAN, J.

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