

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2021

CORAM

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

C.R.P.(PD).No.3232 of 2017
and C.M.P.No.15138 of 2017

1. Sriramulu
2. Venkataraman
3. Jothi

... Petitioners

Vs.

1. Andal Ammal
2. Rengarajan
3. Sekar

... Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 16.08.2017 made in I.A.No.367 of 2017 in O.S.No.377 of 2006 by the II Additional District Munsif Court, Virudhachalam.

For Petitioners : Mr.J.Anthony Jesus

For Respondents : Mr.C.Munusamy

ORDER

This Civil Revision Petition is directed as against the fair and decretal order dated 16.08.2017 passed by the learned II Additional District Munsif, Virudhachalam, in I.A.No.367 of 2017 in O.S.No.377 of 2006, thereby dismissing the petition filed by the petitioners to amend the plaint in the prayer portion.

2. The petitioners are the plaintiffs. They filed suit in O.S.377 of 2006 as against the respondents for declaration and also recovery of possession along with the rental balance. The suit was filed in respect of the property comprised in Surevy No.277/4 ad measuring 10 cents situated at Viruthachalam Jail Lane. After commencement of trial, the petitioners filed petition in I.A.No.367 of 2017 for seeking amendment to include the property comprised in survey No.277/8.

3. On perusal of the affidavit filed in support of the amendment petition it revealed that on 19.04.2017 only the petitioners came to understand that the property comprised in Survey No.277/8 also purchased

by one Govindarajalu Naidu, who is none other than the grandfather of the second petitioner herein. Therefore, the petitioners sought to include the said property also for declaration. The Court below dismissed the said petition on the ground that the petition was filed in belated stage and also the amendment sought for by the petitioners did not settle dispute between the parties.

4. Originally, the petitioners filed suit for declaration in respect of the property comprised in survey No.277/4. Now they wanted to include the property comprised in Survey No.277/8 and also for the prayer of declaration. If the amendment is not allowed to be included in the suit property, it would cause multiplicity of proceedings between the parties. That apart, the petitioners came to understand about the property in survey No.277/8, only on 19.04.2017. Further no prejudice would be caused to the respondents if the petition is allowed. Therefore, in the interest of justice, the amendment can be allowed.

5. In view of the above discussion, the order dated 16.08.2017 passed by the learned II Additional District Munsif, Virudhachalam, in I.A.No.367 of 2017 in O.S.No.377 of 2006, is hereby set aside and the petitioners are permitted to amend the plaint. The respondents are at liberty to file additional written statement for the amended plaint. The trial Court is directed to frame the issue in respect of the limitation for the prayer sought for amendment and complete the trial within a period of six months from the date of receipt of copy of this Order.

6. With the above directions, the Civil Revision Petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

18.02.2021

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

rts

To

1. The II Additional District Munsif,
Virudhachalam.
2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.

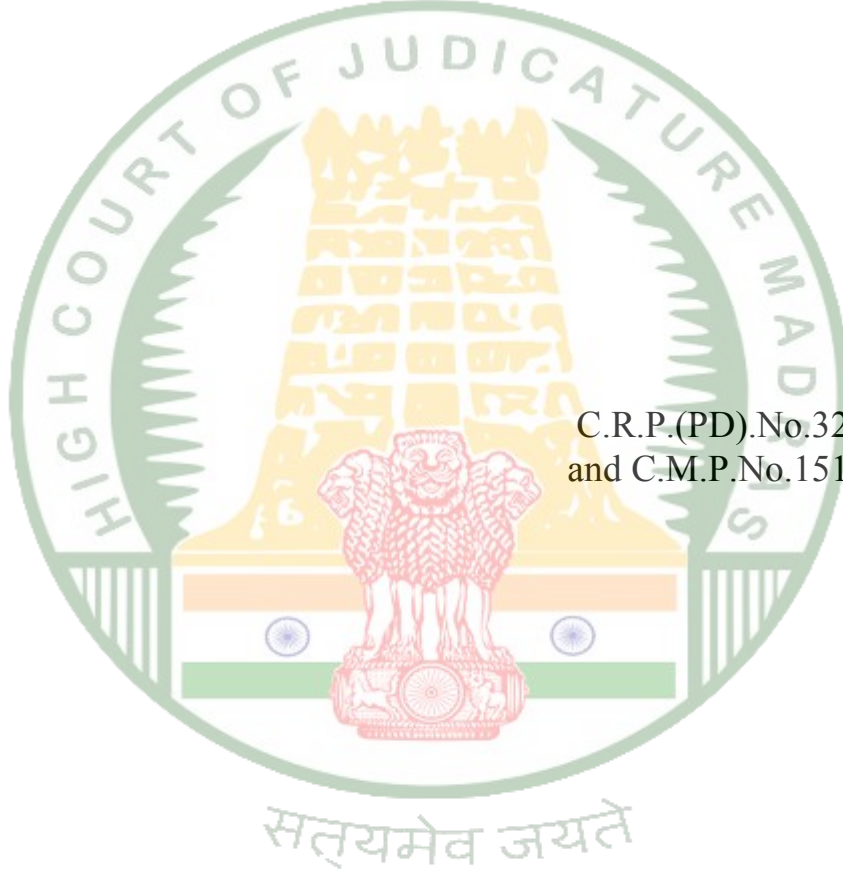


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G.K.ILANTHIRAIYAN, J.

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