

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2021

CORAM

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

CRP.PD.No.3999 of 2017

and

CMP.No.18705 of 2017

1.Juleka Bi @ Majanbi

2. Fatheema Bi

..Petitioners

Vs.

1. M.Abdul Munaf

2. A.Afroz

3. A.Sabiha Banu

4. A.Shabena

5. A.Reshma

6. A.Firoz

7. Syed Ibrahim

8. P.Kamar

9. Dr.S.Shanmuga Vadivu

10. Subiya Bi

..Respondents

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order and decretal order dated 22.09.2017 made in I.A.No.279 of 2016 in O.S.No.10 of 2012 on the file of the Additional District Judge, Hosur, by allowing this Civil Revision Petition.

For Petitioners

: Mr.T.Dhanasekaran

For Respondents

: Mr.V.Raghavachari
(for R1 to R6)

: No Appearance
(for R7 to R10)

ORDER

This Civil Revision Petition is directed as against the order and decretal order passed in I.A.No.279 of 2016 in O.S.No.10 of 2012 dated 22.09.2017 on the file of the Additional District Judge, Hosur.

2. The learned counsel for the petitioners submitted that the petitioners are the defendants 3 and 4 in the suit filed by the respondents 1 to 6 herein for permanent injunction. Immediately, after filing the suit, the petitioners filed their written statement, thereby, denying the very title over the suit property. Even then, the respondents 1 to 6 failed to come forward with the petition for amendment to amend the prayer for declaration in respect of the suit property. Only in the year 2016, they filed a petition for amendment to include the prayer for declaration in respect of the suit property.

3. Without considering the limitation as provided Article 58 of the Limitation Act, the Court below mechanically allowed the petition. This Court as well as the Hon'ble Supreme Court of India repeatedly held that the limitation cannot be taken into account at the time of allowing the petition

for amendment to the prayer of declaration and it can be considered at the time of deciding the suit. Therefore, this Court finds no irregularity or infirmity in the order passed by the Court below.

4. Accordingly, this Civil Revision Petition is dismissed. However, the trial Court is directed to frame the issue, in respect of the limitation and decide the suit on merits in accordance with law. Consequently, the connected Miscellaneous Petition is closed. No costs.

11.02.2021

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
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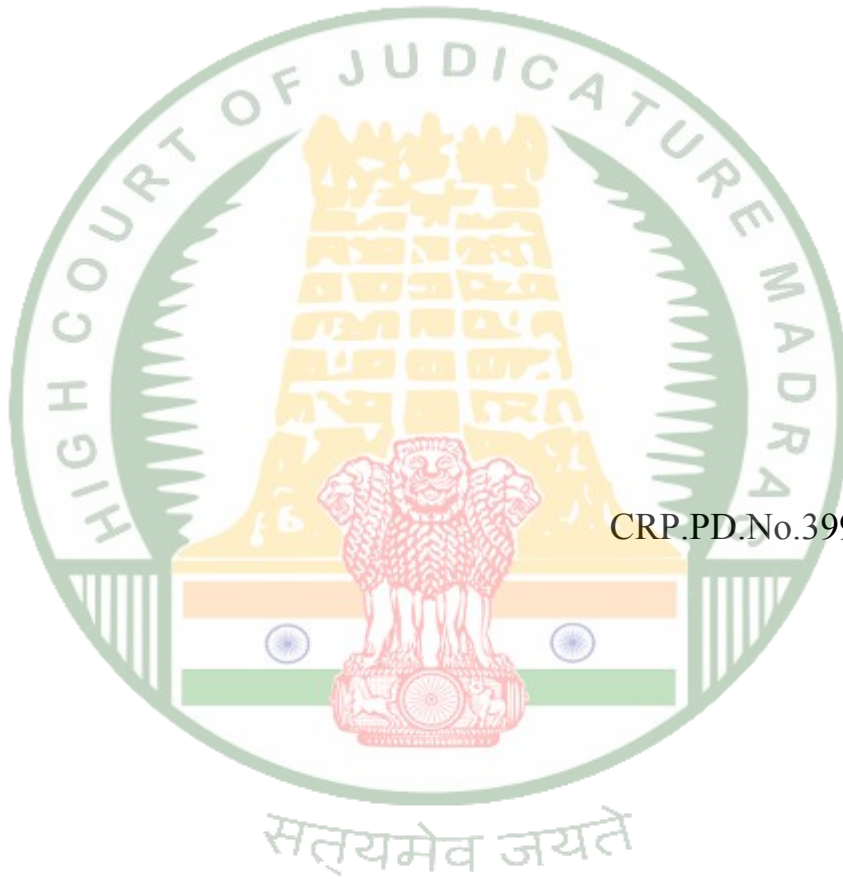
To

The Additional District Judge, Hosur.

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G.K.ILANTHIRAIYAN,J.

Kv



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