

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2021

CORAM

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

**C.R.P.(PD) No. 4164 of 2018
and CMP No.22949 of 2018**

R.Palanisamy

...

Petitioner

Vs

1.Marayammal
2.R.S.Shanmugam
3.K.M.Shanmugam

...

Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 23.07.2018 made in I.A.No.20 of 2018 in O.S.No.179 of 2015 on the file of the I Additional District Munsif, Bhavani.

For Petitioner : No appearance

ORDER

This Civil Revision Petition has been filed against the fair and decreetal order 23.07.2018 made in I.A.No.20 of 2018 in O.S.No.179 of 2015 on the file of the I Additional District Munsif, Bhavani, thereby dismissing the petition for seeking amendment in the prayer.

2. The petitioner is the plaintiff and the respondents are the defendants. The petitioner initially filed a suit for bare injunction in respect of the suit property. After filing the written statement by the respondents, while P.W.1 was in the box for cross-examination, the petitioner filed a petition seeking amendment to include the prayer for declaration of title.

3. On perusal of the written statement revealed that the respondents denied the title of the suit property and as such, the petitioner necessarily ought to have amend the prayer for declaration. But the Court below dismissed the petition only on the ground that the petition for amendment sought for by the petitioner filed belatedly, that too when P.W.1 was in the box for cross examination. There is no explanation for the delay in filing of the petition for amendment.

4. However, if the amendment is allowed, no prejudice would be caused to the respondents. That apart, the amendment would not change the nature of the suit. Considering the same, the order passed in I.A.No.20 of 2018 in O.S.No.179 of 2015, dated 23.07.2018, on the file of the I Additional District Munsif, Bhavani, is set aside and the Civil

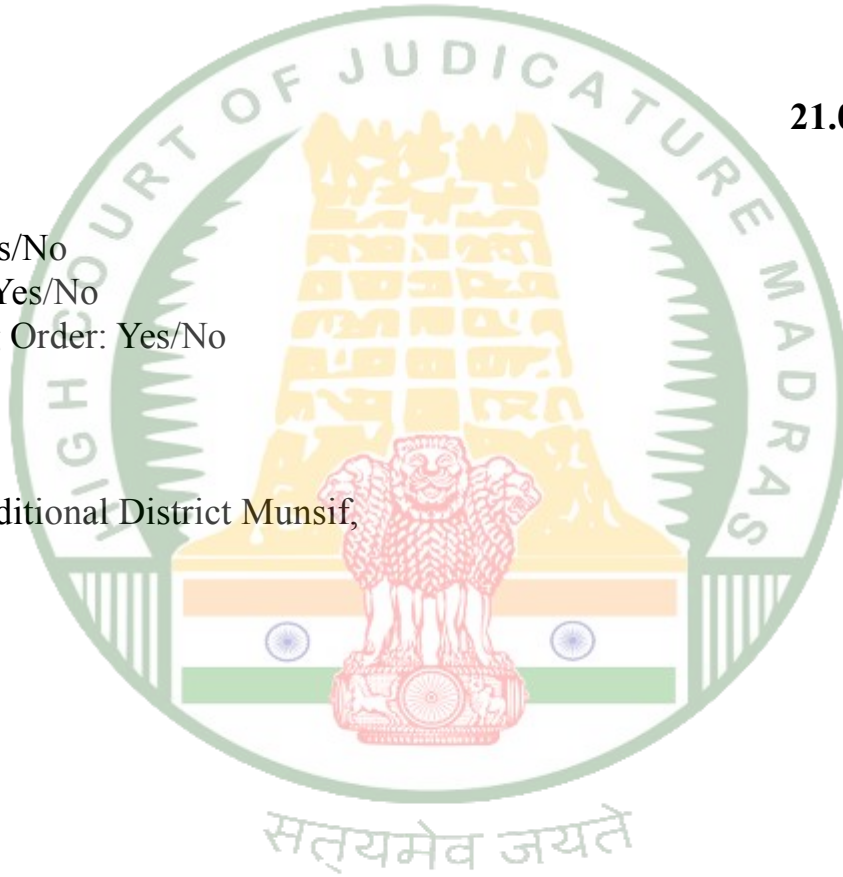
Revision Petition is allowed. The respondents are permitted to file their additional written statement and thereafter, the Trial Court is directed to frame additional issues, if any, and dispose of the suit within a period of six months, thereafter.

21.06.2021

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Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No

To

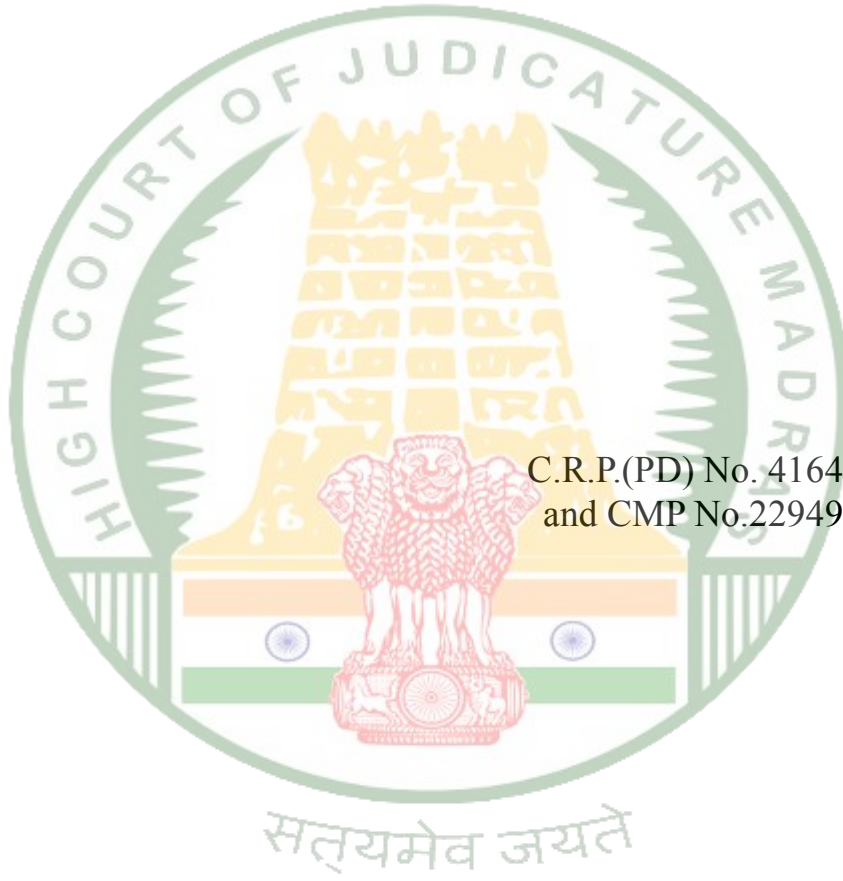
The I Additional District Munsif,
Bhavani



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G.K.ILANTHIRAIYAN.J,

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