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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2026

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.R.P. No. 414 of 2025

&

C.M.P. No. 2561 of 2025

Rajavel

..Petitioner

Vs.

P. Kumar

..Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India as against the fair and decretal order dated 22.11.2024 passed in I.A. No. 797 of 2024 in O.S. No. 225 of 2016 by the learned I Additional District Munsif, Kallakurichi.

For Petitioner :: Mr.N. Manoharan

For Respondent :: Mr.R. Nalliyappan

O R D E R

This civil revision petition has been filed challenging the impugned order dated 22.11.2024 passed in I.A.No. 797 of 2024 in O.S. No. 225 of 2016 on the file of I Additional District Munsif, Kallakurichi.

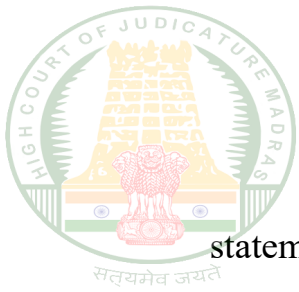


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2. By the aforesaid order, the application filed by the plaintiff in the suit seeking to amend the suit prayer from one of permanent injunction to one of declaration with regard to the suit pathway has been allowed. The declaratory relief sought for by the respondent/plaintiff includes the relief to declare the sale deed standing in the name of the petitioner/defendant as null and void.

3. The petitioner/defendant has filed this civil revision petition on the ground that the Trial Court committed an error in entertaining the amendment application, which is hopelessly barred by limitation. The petitioner also claims that he is the absolute owner of the suit property and therefore, the respondent/plaintiff does not have any right to challenge the same.

4. Learned counsel for the petitioner drew the attention of this Court to the written statement filed by the petitioner/defendant in the suit. In the said written statement, the petitioner/defendant has categorically stated that the pathway, which the respondent/plaintiff claims to be a public pathway, is the absolute property of the petitioner/defendant, he having purchased the same through a sale deed dated 29.01.2016. The said written



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statement was filed on 17.11.2016. However, the respondent, through the amendment application in I.A. No. 797 of 2024 claimed that it is a public pathway for the use of the public including the petitioner/defendant. The application seeking amendment of the reliefs in the suit, as stated supra, was filed in the year 2024, even though the written statement was filed by the petitioner/defendant on 17.11.2016 itself, i.e, after a lapse of 8 years. Hence, the learned counsel for the petitioner contends that the Trial Court ought not to have entertained the amendment application and ought to have dismissed the same on the ground that it is barred by Article 58 of the Limitation Act, 1963.

5. Learned counsel for the petitioner also drew the attention of this Court to the judgment of the Honourable Supreme Court in the case of *L.C. Hanumanthappa (since dead) rep. by his legal representatives V. H.B. Shivakumar* reported in (2016) 1 SCC 332 and after referring to various paragraphs in the said decision, would submit that in similar circumstances, the Honourable Supreme Court has held that the amendment application is barred by limitation. He would point out that in the aforesaid decision as well, the amendment application was filed beyond



the period of 3 years from the date on which the written statement was filed stating that the subject property was absolutely owned by the defendant.

6. On the other hand, learned counsel for the respondent/plaintiff would submit that the limitation is a mixed question of fact and law and therefore, the Trial Court has rightly allowed the amendment application filed by the respondent/plaintiff.

7. Article 58 of the Limitation Act, 1963 reads as follows:

<i>Description of Suit</i>	<i>Period of Limitation</i>	<i>Time from which period begins to run</i>
<i>PART III – Suits relating to Declarations</i>		

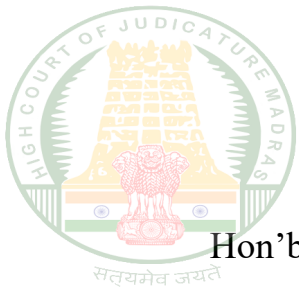
<i>58. To obtain any other declaration</i>	<i>Three years</i>	<i>When the right to sue first accrues</i>
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From the above extracted portion, it is clear that whenever any party seeks for the relief of declaration, the said party will have to file a suit within 3 years from the date on which the right to sue first accrues. In the case on hand, it is an undisputed fact that the respondent/plaintiff became aware of the sale deed standing in the name of the petitioner/defendant by which the petitioner/defendant claims absolute ownership of the alleged public pathway through the written statement filed by the



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petitioner/defendant on 17.11.2016. Admittedly, the respondent/plaintiff filed the amendment application seeking to amend the suit prayer to one of declaration only on 12.06.2024, i.e., after a lapse of more than 8 years from the date of knowledge of the sale deed standing in the name of the petitioner/defendant. The Hon'ble Supreme Court, in the decision relied upon by the learned counsel for the petitioner/defendant in *L.C. Hanumanthappa's case* which also dealt with a similar situation as in the instant case, where the written statement was filed disclosing that the petitioner/defendant was the absolute owner of the suit property, but the amendment application was filed beyond the period of 3 years fixed under Article 58 of Limitation Act, 1963, held that whether it is an amendment application or a suit seeking for declaratory relief, the same will have to be filed within 3 years from the date on which the right to sue first accrues. In the instant case, it is an undisputed fact that the application for amendment seeking declaratory reliefs were filed after a lapse of 8 years from the date of filing of the written statement by the petitioner/defendant categorically stating that the suit property is not a public pathway, but a property absolutely owned by him. Therefore, applying the ratio rendered by the



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Hon'ble Supreme Court in *L.C. Hanumanthappa's* case, referred to supra, the application filed by the respondent/plaintiff seeking for amendment is hopelessly barred by law of limitation.

8. The decision relied upon by the learned counsel for the respondent/plaintiff in the case of *Ponnusamy (died) rep. by Settu @ Krishnasamy V. Arumugam (Died) rep. by Nallappan and another rendered in C.R.P. (PD) No. 1810 of 2015* has no bearing to the facts of the instant case. Only if there is a doubt with regard to limitation, it will be a mixed question of law and fact, when a limitation plea is taken by one of the parties to the dispute. When this Court has found that in the instant case that the application for amendment is hopelessly barred by limitation, on the face of it, the question of applying the principle 'mixed question of law and fact' would not arise. The Trial Court, under the impugned order, has erroneously allowed the amendment application filed by the respondent/plaintiff, despite the fact that the amendment application is hopelessly barred by law of limitation under Article 58 of the Limitation Act, 1963.

9. For the foregoing reasons, the impugned order passed by the Trial Court has to be necessarily interfered with by this Court.



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Accordingly, the impugned order dated 22.11.2024 passed in I.A. No. 797 of 2024 in O.S. No. 225 of 2016 by the learned I Additional District Munsif, Kallakurichi, is hereby set aside. The Civil Revision Petition stands allowed. No costs. Connected C.M.P. is closed.

10.07.2026

To

The I Addl. District Munsif, Kallakurichi



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ABDUL QUDDHOSE,J.

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C.R.P. No. 414 of 2025

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