



C.R.P.(PD)(MD)No.1752 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 08.07.2026

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

C.R.P.(PD)(MD)No.1752 of 2026

and

C.M.P.(MD)No.8454 of 2026

Mohammed Safiyullah

... Petitioner

Vs

1.Kabipa

Kaliyullah @ Periya Ibrahim (Died)

2.Kadher Masthan Begum

Saibunissa (Died)

3.Shajathi

4.Jessi @ Fathima

5.Babu

6.Jall

7.Shiba

8.Iqbal

9.Sameen Fathima

... Respondents



C.R.P.(PD)(MD)No.1752 of 2026

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 22.04.2026 in I.A.No.14 of 2026 in O.S.No.836 of 2024, on the file of the learned Subordinate Judge, Rajapalayam.

For Petitioners : Mr.R.Rajeshkumar

For Respondents : Mr.M.S.Jayakarthis for R1 & R2

ORDER

The Civil Revision Petition is filed challenging the order passed by the trial Court allowing the application filed by the first respondent/plaintiff seeking amendment of the prayer in the plaint.

2. The first respondent herein filed a suit seeking partition of her 1/12 share in the suit property against the petitioner's father and brother of the first respondent, namely Kaliyullah @ Periya Ibrahim and other respondents. The trial in the suit is already commenced and the suit is posted for recording evidence of D.W.3. At this stage, the first respondent/plaintiff filed the instant application seeking amendment of the prayer so as to claim 1/6th share in the suit property. The said amendment application was allowed by the trial Court. Aggrieved by the



C.R.P.(PD)(MD)No.1752 of 2026

same, the petitioner/9th defendant, who is the one of the legal heirs of Kaliyullah @ Periya Ibrahim, has come before this Court.

3. The learned counsel appearing for the petitioner would submit the first respondent being the female heir and daughter of Athavullah @ Periya Ibrahim Lebbai is entitled to only 1/3rd share in the suit property and the remaining 2/3rd share shall go to the son of Athavullah @ Periya Ibrahim Lebbai, namely the father of the petitioner. Therefore, according to the petitioner, the first respondent is not entitled to 1/6th share. However, all the daughters of Athavullah @ Periya Ibrahim Lebbai are collectively entitled to 1/3rd share. The learned counsel for the petitioner further submitted that the first respondent failed to give any convincing reason for filing amendment application after commencement of the trial. Therefore, the trial Court ought not to have allowed the amendment application.

4. It is the case of the first respondent that under Mohammedan, son is entitled to take double the share of a daughter and hence, the four daughters of Athavullah @ Periya Ibrahim Lebbai including the first respondent are entitled to 1/6th share in the property



C.R.P.(PD)(MD)No.1752 of 2026

and the remaining 2/6th would go to the son of Athavullah @ Periya Ibrahim Lebbai namely the father of the petitioner. By allowing the amendment application, the share mentioned in the prayer portion of the planit is modified as 1/6th share instead of 1/12 share.

5. Merely because amendment application is allowed, the plaintiff is not entitled to a decree for the said share. The trial Court has to decide the actual share to be given to each sharers, after hearing the arguments of respective parties. Therefore merely because the suit prayer is amended by substituting the share of the first respondent as 1/6 share instead of 1/12 share, no prejudice will be caused to the petitioner and it is always open to him to argue that the first respondent is not entitled to 1/6th share as prayed for her.

6. In view of the same, the allowing of the amendment application will not cause serious prejudice to the petitioner and he is entitled to put forth his case before the trial Court at the time of final disposal. As far as the contention raised by the learned counsel for the petitioner that amendment application was filed after commencement of the trial, in the affidavit filed in support of the amendment application, it



C.R.P.(PD)(MD)No.1752 of 2026

was stated by the first respondent that she noted the erroneous prayer only at the time of filing of amendment application. Immediately the said application had been filed seeking to amend the prayer as 1/6 share instead of 1/12 share. As mentioned earlier, the modification of the share mentioned in the prayer portion of the plaint will not cause prejudice to the defendants and in spite of the allowing of the amendment application, they are entitled to advance arguments resisting the share claimed by the plaintiff.

7. In such circumstances, in the light of the averment contained in the affidavit regarding the error committed in the prayer portion, this Court feels that the trial Court rightly allowed the amendment application and the same is only clarificatory in nature. I don't find any illegality or irregularity in the order passed by the trial Court. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected civil miscellaneous petition is closed.

08.07.2026

NCC : Yes / No
Index : Yes / No



WEB COPY



C.R.P.(PD)(MD)No.1752 of 2026



WEB COPY



C.R.P.(PD)(MD)No.1752 of 2026

S.SOUNTHAR, J.

vsm

To

1. The Subordinate Judge, Rajapalayam
2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

C.R.P.(PD)(MD)No.1752 of 2026

08.07.2026