



C.R.P.(MD)No.1555 of 2024

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**Dated : 14.08.2024**

**CORAM**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

C.R.P.(MD)No.1555 of 2024

and

C.M.P.(MD)No.9197 of 2024

1.M.Vijayaraghavan

2. R.Karthikeyan

... Petitioners/Petitioners/Petitioners/  
Defendants

Vs.

M.Thangam

... Respondent/Respondent/Respondent/  
Plaintiff

**Prayer:** Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 03.04.2024 passed in I.A.No.923 of 2022 in I.A.No.375 of 2019 in O.S.No.129 of 2019 on the file of the Third Additional Subordinate Judge, Madurai by allowing this Revision Petition.

For Petitioners : Mr.J.Mathesh

For Respondent : Mr.R.Maheswaran

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## **ORDER**

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Heard both sides.

2.The defendants in O.S.No.129 of 2019 on the file of the III Additional Sub Court, Madurai are the revision petitioners herein. The respondent herein filed the said suit for the relief of declaration, recovery of possession and permanent injunction. The revision petitioners herein raised counter claim. They sought the relief of declaration and permanent injunction. The defendants filed I.A.No.923 of 2022 for amending the schedule of property in the counter claim. This I.A. was dismissed by the Court below vide order dated 03.04.2024. Questioning the same, this civil revision petition came to be filed.

3.The learned counsel for the revision petitioners wanted this Court to set aside the impugned order and allow the amendment.

4.The learned counsel for the respondent / plaintiff submitted that the impugned order is well reasoned and that it does not call for interference.

5.I carefully considered the rival contentions and went through the materials. It is seen that the plaintiff filed I.A.No.65 of 2019 for appointment



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of advocate commissioner. Inspection was done and the report was also submitted.

6.The Court below has taken the view that if the amendment sought for by the defendants is allowed, there is scope for the defendants to lay claim on government land also. It was further added that without proper proof and justification, the defendants cannot be allowed to alter the four boundaries in the schedule.

7.As rightly pointed out by the learned counsel for the revision petitioners, the Court below ought to have taken note of the fact that what is sought is only pre-trial amendment. It is well settled that Courts have to be liberal in matter of pre-trial amendment. Secondly, merits of the matter need not be gone into at this stage. Merely because, the defendants have been allowed to amend the schedule of property in the counter claim that does not relieve them of the obligation to prove their case when the trial takes place.

8.In this view of the matter, the impugned order is set aside and the Court below is directed to permit the defendants to amend the schedule of property in the counter claim as prayed for.



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9. Since the case is almost five years old, the learned trial Judge is directed to conclude the suit on merits and in accordance with law within a period of eight months from the date of receipt of a copy of this order.

10. This civil revision petition is allowed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

**14.08.2024**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No  
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**To:**

The III Additional Sub Court,  
Madurai.



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**G.R.SWAMINATHAN, J.**

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