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CRP No. 319 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-12-2025

CORAM

THE HONOURABLE MR.JUSTICE S. SOUNTHAR

CRP No. 319 of 2024

AND

CMP NO. 1492 OF 2024

1.Krishnamoorthy,
S/o.Late Muthusamy,
12/15, Pudhur Theru,
Thaneerpanal Palayam and Post,
Perunduri Tk, Erode District.

2. Amminiammal,
W/o.Late Muthusamy,
12/15, Pudhur Theru,
Thaneerpanal Palayam and Post,
Perunduri Tk, Erode District.

3. Dhanalakshmi,
D/o.Muthusamy,
9/42, Shanmugam St,
Karukkampalayam, Pethampalayam,
Perunduri Tk, Erode District.

4. Jothimani,
D/o.late Muthusamy,
221, Vattakattu Thottam, Kanchi Nagar,
Vairamangalam Post, Bhavani Tk,
Erode District.

Petitioner(s)

Vs

Nallappagounder (Died)
1.Venkatachalam,
S/o.Nallappa Gounder, Kariyam Kadu,
Main Road, Thaneer Pandalpalayam,
Perundurai Tk, Erode District.



2.Karuppanasamy
S/o.Nallappa Gounder,
Chettikadu Thottam, Main Road
Thaneer pandalpalayam, Perundurai Tk,
Erode District.

Murugesan (Died)

3.Manisekar
S/o.Venkatachalam, Kariyam Kadu,
Main Road, Thaneer Pandalpalayam,
Perundurai Tk, Erode District.

4.Canara Bank,
Rep.by Manager, Bhavani,
Erode District.

5.Poongodi,
W/o.late Murugesan, Kariyam Kadu,
Main Road, Thaneer Pandalpalayam,
Perundurai Tk, Erode District.

6.Minor Gokulraj,
S/o.Murugesan,
Rep.by Natural guardian/mother
Poongodi, Kariyam Kadu, Main Road,
Thaneer Pandalpalayam, Perundurai Tk,
Erode District.

7.Rajammal,
W/o.T.N.Venkatachalam,
Kariyam Kadu, Main Road, Thaneer
Pandalpalayam, Perundurai Tk,
Erode District.

Respondent(s)

PRAYER:- Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair order and final order dated 08.11.2023 passed in IA.No. 21/2023 in OS.No. 316/2011 on the file of the District Munsif Court, Perundurai, Erode District.



For Petitioner(s): Mr.J.Titus Enock

For Respondent(s): Mr.C.Munusamy
For R1 to R3, R5 to R7

Mr.M.A.Abdul Wahab
for M/s.K.V.Subramanian
Associates For R4

ORDER

Challenging the order passed by the trial Court partly dismissing the application filed by the petitioner seeking amendment of plaint, this Civil Revision Petition is filed.

2.The petitioners herein filed a suit seeking declaration that the partition deed dated 11.06.1997 was null and void. The petitioners have also sought for declaration of title and permanent injunction. The trial in the suit has commenced and now it is in the stage of P.W.1 cross. The petitioners filed the instant petition seeking amendment of plaint. The 1st limb of the amendment is for inclusion of defendants 7 to 9 and the same was allowed by the trial Court and there is no dispute with regard to that. The subject matter of the Civil Revision Petition is about the 2nd limb of the amendment. By this amendment, the petitioners want to include the four boundaries of the suit properties in the plaint schedule. The said prayer was dismissed by the trial Court. Aggrieved by the same, the petitioners have come before this Court.



3.Learned counsel for the petitioners would submit that in view of the fact that the petitioners have sought for declaration and injunction in respect of immovable properties, the four boundaries is very much essential and hence the trial Court has committed error in dismissing the 2nd limb of the prayer.

4.Learned counsel for the respondents 1 to 3 and 5 to 7 would submit that the application for amendment has been filed after the commencement of the trial. Further, the petitioner failed to give any reason for the failure to seek amendment prior to the commencement of the trial.

5.Proviso to Order VI Rule 17 CPC reads as follows:-

"The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties :

provided that no application for amendment shall be allowed, after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial"

Therefore, the litigant seeking amendment to his pleading subsequent to the commencement of trial has to establish why he was not in a position to amend the prayer prior to the commencement of the trial. Further in the case in hand,



the petitioners have failed to give any reason for the failure to amend the plaint prior to the commencement of the trial in the affidavit filed in support of the amendment application. Therefore, the trial Court was pleased to dismiss the amendment application in respect of the 2nd limb of the prayer.

6.As far as the 1st limb of the prayer is concerned, the petitioners' made a prayer to include the legal heirs of the deceased 4th respondent herein as defendants 7 to 9 and the said prayer was allowed.

7.It is also stated by the learned counsel for the petitioners that, in the plaint, the sub-division numbers of the suit property was given with its full extent. Therefore, it is not the case of the petitioner that the suit property makes portion of total extent available in the sub division numbers. When the full extent of the suit property is given in the plaint, non-mentioning of four boundaries will not affect the rights of the petitioners in any way. Therefore, I do not think the inclusion of four boundaries are necessary in the present case. In any event, due to the embargo under proviso to Order VI Rule 7 CPC, the trial Court was justified in rejecting the amendment of plaint and I do not find any error in the impugned order.



8. With the above observation, this civil revision petition stands dismissed.

No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



To:-

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The District Munsif Judge,
Perungurai, Erode District.

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