



WEB COPY

CRP No. 853 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-04-2025

CORAM

THE HONOURABLE MS. JUSTICE P.T. ASHA

CRP No. 853 of 2025

and

CMP No.5085 of 2025

1. SELVARAJ

S/o. Duraisamy Naicker,
No.326, Fourth Main Road, Kamarajar Nagar,
Thiruvanmiyur, Chennai - 600 004.

2. Sivakumar

S/o.Masilamani, No.84 New No.3, Village Main
Road, Sholinganallur, Chennai - 600 119.

Petitioner(s)

Vs

Punniyavathy (died)

1.V.Sekar

S/o.Vedagiri,
Residing at No.2/67 Vembuliamman Koil
Street, Vandalur, Chennai - 600 048.

2.V.Balu

S/o.Vedagiri,
Residing at No.2/67 Vembuliamman Koil
Street, Vandalur Chennai - 600 048.



3.P.Devaki

W/o.Parthasarathi, at No.2/67 Vembuliamman
Koil Street, Vandalur, Chennai - 600 048.

WEB COPY

Prema (died)

Masilamani (died)

4.Alamelu

D/o.Duraisamy Naicker, No.3/367, Pillaiyar
Koil Street, Mettupalayam, Chennai - 600 119.

Yamuna (died).

5.Loganayaki @ Premalatha

D/o.Masilamani, Residing at No.84 New No.3
Village Main Road, Sholinganallur, Chennai -
600 119.

6.Sundari

D/o.Masilamani, Residing at No.84 New No.3
Village Main Road, Sholinganallur, Chennai -
600 119.

7.Ramani

D/o.Masilamani, Residing at No.84 New No.3
Village Main Road, Sholinganallur, Chennai -
600 119.

8.Amutha

D/o.Masilamani, Residing at No.84 New No.3
Village Main Road, Sholinganallur, Chennai -
600 119.

9.V.Manickam

S/o.Vedagiri, No5 Maduvappan Naicken Street,
Lakshmiapuram , Chrompet, Chennai - 600 044.



10.Kothanayaki

W/o.Ekambaram, Old No.19/27, Manimekala

Street, Maraimalainagar - 603 209.

Respondent(s)

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 15-11-2024 passed in I.A.No.6 of 2024 in O.S.No.209 of 2024 on the file of the District Munsif-cum-Judicial Magistrate, Sholinganallur.

For Petitioner(s): Mr.T.N.Rajagopal
for Mr.J.Abdul Hadi

For Respondent(s): Mr.Srinivas Jayaprakash
for M.Thangadurai, Caveator Counsel for RR 1 to 3
Not ready in notice – RR 4 to 10

ORDER

The second and sixth defendants are the revision petitioners before this court challenging the order dated 15-11-2024 passed in I.A.No.6 of 2024 in O.S.No.209 of 2024 on the file of the District Munsif-cum-Judicial Magistrate, Sholinganallur.

2. The learned Judge has allowed the application filed by the plaintiffs for amending the plaint. The petitioners are aggrieved by the fact that the order impugned is a non-speaking order.



WEB COPY

3. The learned counsel appearing on behalf of the respondents had filed a counter, in and by which, he would contend that the amendment in no way would prejudice the petitioners and would also prevent multiplicity of proceedings. That apart, he would contend that the amendment petition is not barred by limitation, as it is a continuing cause of action and amendment could be allowed at any stage of the proceedings. He would also submit that so long as the amendment did not cause prejudice or does not lead to injustice, it should be ordered. Further, he would submit that the order impugned cannot be called a non-speaking order, as the learned Judge has clearly stated that the amendment would no way alter the nature of the suit. He would further submit that the Supreme Court has held that there is no necessity to pass elaborate orders and an order cannot be set aside merely on the ground that it is a non-speaking one.

4. Heard the learned counsel on both sides.

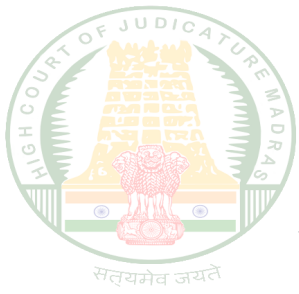
5. The petitioners have objected to the amendment on the ground that it is a belated one. The plaintiffs despite being aware of these details have



WEB COPY

deliberately not chosen to file a amendment at the earliest and that apart, in the guise of an amendment new properties, which did not form the subject matter of the earlier schedule, have been introduced. There is also no document to show proof that the property stood in the name of Duraisamy Naicker and a new prayer to declare the sale deeds as invalid and void of issue has also been sought, which would amount to altering the very nature of the suit. The petitioners have also stated that any application for setting aside the sale deed should have been made within three years from the date of registration, whereas, the present application has been filed ten years thereafter. Though the petitioners have raised all these defences to the amendment application, a mere reading of the order impugned would clearly show that there has been no application of mind on the part of the learned Judge. The impleading application has been allowed for the following reasons:

“On considering the facts and circumstances it is pertinent to take note that the main reason for filing this present application is that to introduce some left survey numbers ought to be added. It further pleaded that set facts are now known to the present counsel for the petitioner on the other hand it is vehemently objected by the counsel for the respondent stating that the amendments that would alter the nature of suit is not permissible.



WEB COPY

CRP No. 853 of 2



On careful perusal it is pertinent that no prejudice would cause to the respondent if the new survey numbers are added in to the suit schedule properties. Apart it would facilitate both the parties to avoid multiplicity of proceedings. Therefore, in the interest of justice this court is inclined to allow this present application.”

6. Considering the fact that the order impugned does not reflect the consideration of the defence raised by the petitioners and the reasons for not accepting the same, the order in question is a non-speaking one and is liable to be set aside and the learned District Munsif-cum-Judicial Magistrate, Sholinganallur, shall consider I.A.No.6 of 2024 in O.S.No.209 of 2024 afresh and pass a speaking order within a period of one month from the date of receipt of a copy of this order.

Accordingly, the order impugned herein is set aside. Consequently, this civil revision petition is allowed. No costs. Connected C.M.P. is closed.

09-04-2025

nsd

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



To

1.V.Sekar

S/o.Vedagiri, Residing at No.2/67 Vembuliamman Koil Street,
Vandalur Chennai - 600 048.

2.V.Balu

S/o.Vedagiri, Residing at No.2/67 Vembuliamman Koil Street,
Vandalur Chennai - 600 048.

3.P.Devaki

W/o.Parthasarathi, at No.2/67 Vembuliamman Koil Street, Vandalur,
Chennai - 600 048.

4.Alamelu

D/o.Duraisamy Naicker, No.3/367, Pillaiyar Koil Street,
Mettupalayam, Chennai - 600 119.

5.Loganayaki @ Premalatha

D/o.Masilamani, Residing at No.84 New No.3 Village Main Road,
Sholinganallur, Chennai - 600 119.

6.Sundari

D/o.Masilamani, Residing at No.84 New No.3 Village Main Road,
Sholinganallur, Chennai - 600 119.

7.Ramani

D/o.Masilamani, Residing at No.84 New No.3 Village Main Road,
Sholinganallur, Chennai - 600 119.

8.Amutha

D/o.Masilamani, Residing at No.84 New No.3 Village Main Road,
Sholinganallur, Chennai - 600 119.

9.V.Manickam

s/o.Vedagiri, No5 Maduvappan Naicken Street, Lakshmipuram ,
Chrompet, Chennai - 600 044.

10.Kothanayaki

W/o.Ekambaram, Old No.19/27, Manimekala Street,
Maraimalainagar - 603 209.



WEB COPY

CRP No. 853 of 2



P.T.ASHA J.

nsd

CRP No. 853 of 2025

09-04-2025