



CRP.No.1019 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2025

CORAM:

THE HON'BLE MR. JUSTICE M.JOTHIRAMAN

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Rathidevi

...

Petitioner / Plaintiff

vs.

Palanisamy, (Died),

- 1.Hemalatha
- 2.Subulakshmi
- 3.Kathirasan
- 4.Vasanthi
- 5.Prabu
- 6.Kavitha
- 7.Duraisamy
- 8.Sangeetha
- 9.Selvatha
- 10.Lakshmi
- 11.Susila
- 12.Indhumathi
- 13.Palnisamy
- 14.Sivaranjini
- 15.Selvi
- 16.Valarmathi
- 17.Murthy

.. Respondents / Defendants



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Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 27.11.2023 in I.A.No.5 of 2023 in O.S.No.275 of 2010 on the file of the District Munsif, Dharapuram, dismissing the amendment petition and to set aside the same.

For Petitioner : Mr.K.Sudhakar

For Respondents : Mr.N.Manoharan,
for Mr.N.Ponraj for R1, R2, R4 to R8,
R10 to R13 and R15 to R17

ORDER

The unsuccessful plaintiff has preferred this revision petition. The 1st defendant is the father of the plaintiff and the 2nd defendant is the sister of the plaintiff. The Suit is filed for the relief of Declaration and for Permanent Injunction. During the pendency of the Suit, the plaintiff has filed an application in I.A.No.5 of 2023 in O.S.No.275 of 2010 Order VI Rule 17 CPC to amend the plaint.

2. The defendants have filed their objections and upon hearing either side, the Court below has dismissed the application on the ground that the plaintiff only seeks the relief of Declaration based on her family arrangements and also



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taking into account that the trial has almost completed and if the amendment is allowed, nature and character of the Suit will be altered and will introduce a new cause of action. Aggrieved over the said order of dismissal, the plaintiff has filed the present Civil Revision Petition.

3. The learned counsel appearing for the petitioner would submit that the Trial Court has failed to consider the scope of Order VI Rule 17 CPC and also failed to consider that amendment can be allowed at any stage of the suit proceedings and after the death of the 1st defendant, the plaintiff has taken the amendment application to amend the pleadings and prayer portion. Unless such amendment is permitted, multiplicity of the suit proceedings needs to be instituted before the Court and to avoid the same, the plaintiff has chosen to file the application for amendment. The Court below has failed to consider that the original prayer sought for after the death of the 1st defendant, the plaintiff and the 2nd defendant are title holder of the suit properties. There is no prejudice caused to the defendants by allowing the amendment application, as legal rights of the plaintiffs cannot be curtailed to establish her case before the Court below. To



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strengthen his contention, learned counsel for the petitioner has relied upon the judgment of the Hon'ble Supreme Court in ***Life Insurance Corporation of India v. Sanjeev Builders Private Limited and Ors [AIR 2022 SC 4256]*** to show that the prayer for amendment generally required to be allowed unless amendment may be justifiably allowed where it is intended to rectify the absence of material particulars in the plaint and the delay in applying for amendment alone is not a ground to disallow the prayer and where the aspect of delay is arguable, the prayer for amendment could be allowed and the issue of limitation framed separately for decision.

4. *Per contra*, learned counsel appearing for the respondents would submit that Order VI Rule 17 CPC provides 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. To strengthen his contentions, the learned counsel has relied upon the judgment of the Hon'ble Supreme Court in ***Basavaraj v. Indira and Others [2024 INSC 151]*** and yet another judgment in ***P.Mariappan v.***



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P.Mohankumar [2021 (5) CTC 727] to show that amendment changing the entire character of the Suit cannot be permitted that too after a lapse of reasonable years after the institution of the Suit.

5. Heard the learned counsel on either side and perused the entire materials available on record.

6. According to the plaintiff, the Suit properties are ancestral properties of the plaintiff's father and subsequently as per the family arrangement between the plaintiff, the 1st defendant Palanisamy and the 2nd defendant Hemalatha, their father was given life estate of the suit properties. It is also stated that it was agreed to enjoy the properties without creating any encumbrance over the suit properties. The plaintiff's father/1st defendant Palanisamy died on 22.11.2013. After his death, the suit property belongs to the plaintiff and the 2nd defendant jointly. Therefore, the plaintiff and the 2nd defendant is having equal $\frac{1}{2}$ share in the suit properties. Hence, if the suit is decreed in favour of the plaintiff, then the plaintiff has to file a partition suit separately and the same will cause delay to the



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proceedings and the plaintiff could not enjoy the properties and therefore, it is just and necessary to amend the relief to the relief of partition of the suit properties.

7. It is seen from the records that the 2nd defendant filed her objection, wherein it has been stated that originally the suit properties is the ancestral property of the deceased / 1st defendant Palanisamy. On 12.03.2010, a registered partition deed was entered between the 1st defendant / deceased Palanisamy, plaintiff and the 2nd defendant. As per the partition deed, 1st item of 'A' Schedule Property was allotted to the 1st respondent, life estate as to 2nd item of 'A' Schedule Property was allotted to the 1st respondent, 3rd item of the 'A' Schedule Property was allotted to the 2nd respondent. The suit 'B' Schedule Property was allotted to the plaintiff. 'C' Schedule Property was allotted to the 2nd defendant. Accordingly, with regard to 'A' Schedule 1st item of the property, the 1st defendant himself, during his lifetime, has sold the property to other persons and the subsequent purchasers are in enjoyment of the same. The plaintiff also sold the part of the 'B' Schedule Property allotted to her. This being the case, after the



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death of the 1st defendant, the plaintiff claims right over the suit property and seeing amendment for the relief of partition, which is unsustainable in law.

8. It is also seen from the records that originally the Suit has been filed for Declaration and for Permanent Injunction. It has been stated in the plaint that the suit properties are ancestral properties of the deceased/1st defendant Palanisamy and the suit properties are allotted to the said Palanisamy as per the family arrangement. It is not in dispute that during the trial of the Suit, the 1st defendant died on 22.11.2013. The amendment application came to be filed in the year 2023 under Order VI Rule 17 CPC.

9. At this juncture it is refer Order VI Rule 17 CPC, which is extracted hereunder:

“Rule 17.Amendment of pleadings.- 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 inspite of due diligence, the party could not have



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raised the matter before the commencement of trial.”

As per the aforesaid provision, amendment can be allowed only in case of due diligence the party could have raised the matter before the commencement of trial and that if the proposed amendment is necessary for the purpose of determining the real questions in controversy between the parties.

10. A perusal of the affidavit filed in support of this petition would reveal that under Order VI Rule 17 CPC, there is no acceptable reason stated as to why the proposed amendment is not sought at the earliest point of time. It is also not in dispute that almost the trial has been completed. If the proposed amendment is allowed, the nature and character of the Suit will be altered and it also amounts to introducing a new cause of action. The Court below, upon considering the arguments advanced on either side, rightly came to the conclusion that the amendment sought to be made in the plaint is not only belated, but also an afterthought and it is not necessary to decide the real controversy between the parties. This Court is of the considered opinion that the trial has already commenced and the revision petitioner /plaintiff has not stated any acceptable reason as to why the proposed amendment was not filed at the earliest point of



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time. If the amendment sought for is allowed, it would cause serious prejudice to the other side. This Court finds no reason to interfere with the findings arrived by the Court below and finds no merit in this Civil Revision Petition.

11. In the result, this Civil Revision Petition stands dismissed, confirming the order dated 27.11.2023 made in I.A.No.5 of 2023 in O.S.No.275 of 2010. No costs.

11.09.2025

Intex : Yes/No
Internet : Yes/No
Jvm

To
District Munsif Court,
Dharapuram.



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M.JOTHIRAMAN, J.

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