



CRP.Nos.1346 & 1347 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Order reserved on : 10.07.2025

Order pronounced on : 28.07.2025

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THE HON'BLE MR. JUSTICE P.B.BALAJI

CRP.Nos.1346 & 1347 of 2023
& CMP.Nos.9022 of 2023

1.Sakthivel
2.Sukumar
3.Managing Trustee,
A.K.T Nobel Cause,
Volunteers Trust.

...Petitioners
in both CRPs

Vs.

1.Subramanian
2.Branch Manager,
Indian Bank,
Kallakurichi.

...Respondents
in both CRPs

Common Prayer: Civil Revision Petitions filed under Article 227 of Constitution of India, to set aside the fair and decretal order dated 10.10.2022 and 19.09.2022 respectively in I.A.No.1076 of 2022 in O.S.No.71 of 2017 on the file of the Principal District Munsif Court, Kallakurichi.

For Petitioners : Mrs.Hema Sampath
Senior Counsel
for Mrs.R.Meenal in both CRPs

For Respondents : Mr.N.Manoharan for R1 in both CRPs
: R2 given up



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COMMON ORDER

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The Civil Revision Petitions are challenging the order dated 10.10.2022 and 19.09.2022 in I.A.No.1076 of 2022 in O.S.No.71 of 2017, one being the earlier order permitting amendment, subject to payment of costs and second order being one recording the payment of costs and consequently, allowing the amendment.

2.The defendants 1 to 3 in O.S.No.71 of 2017, aggrieved by the order in I.A.No.1076 of 2022, allowing an application for amendment at the instance of the plaintiffs, under Order VI Rule 17 of CPC to add details of 1974 oral partition and Patta No.311 and Patta No.644 as well as inclusion of prayers to annul the Partition Deed dated 13.12.2004 and Sale Deed dated 24.09.2009, are before this Court by way of the above revisions.

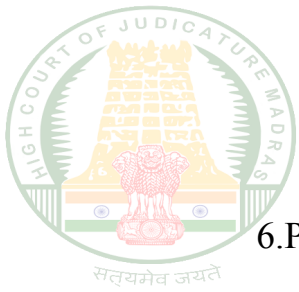
3.I have heard Mrs.Hema Sampath, learned Senior Counsel for Mrs.R.Meenal, learned counsel for the petitioners and Mr.N.Manoharan, learned counsel for the 1st respondent in both the revisions.

4.Mrs.Hema Sampath, learned Senior Counsel for the petitioners would



first and foremost contend that the suit for declaration was filed way back in the year 2017 and even as early as in June 2017, the defendants have filed their written statement, claiming right over the suit property under the registered Sale Deed as well as the Partition Deed and despite the same, after lapse of several years, the plaintiff has now sought for amendment of the plaint. She would therefore state that the relief that is sought for is hopelessly barred by limitation, in view of the mandate of Article 58 of the Schedule to the Limitation Act. She would also state that even in cross-examination of P.W.1, the plaintiff, who deposed as P.W.1, conceded that he did have any documents relating to the partition and the learned counsel would therefore state that no case for amendment has been made out.

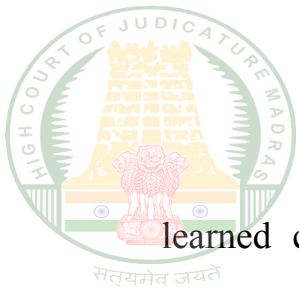
5.The learned Senior Counsel would further contend that the amendment application has been taken out, after completion of cross-examination of P.W.1 and clearly being a post trial amendment, as held by the Hon'ble Supreme Court as well as this Court, the learned Senior Counsel would state that the amendment cannot be viewed liberally and should be viewed only as an attempt to fill up lacuna and changing the basic character of the suit itself, besides an attempt to protract the proceedings. She would therefore pray for the revisions being allowed.



6.Per contra, Mr.N.Manoharan, learned counsel for the 1st

respondent/plaintiff would state that the Trial Court has rightly allowed the amendment application finding that there is no change in the cause of action and also placing reliance on the decision of the Hon'ble Supreme Court in *Mount Mary Enterprises Vs. Jivratna Medi Treat Pvt., Ltd.*, in *Civil Appeal No.1323 of 2015* dated 30.01.2015. He would further state that the Trial Court has also found that the amendment is necessary for determining the real question and controversies between the parties. He would further state that the relief that is sought for in the plaint is for declaration of the title of the plaintiffs and for mandatory injunction to remove the offending construction made by the 3rd defendant and therefore, the mere introduction of further reliefs seeking cancellation of the partition deed and the settlement deed would in no way alter the character of the suit and the reliefs are also not barred by law of limitation in view of the existing larger relief sought for in the suit.

7.The learned counsel for the 1st respondent would also place reliance on the decision of the Hon'ble Supreme Court in *Life Insurance Corporation of India Vs. Sanjeev Builders Private Limited and Another* reported in (2022) 16 SCC 1, where the Hon'ble Supreme Court has laid down guidelines for the Courts to follow while dealing applications for amendment of pleadings. The



learned counsel would place reliance on the said decision of the Hon'ble Supreme Court to fortify his contention that there is no error or infirmity committed by the Trial Court in permitting the amendments sought for by the 1st respondent/plaintiff.

8.I have carefully considered the submissions advanced by the learned counsel on either side.

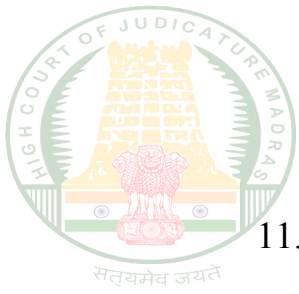
9.Admittedly, the suit is one for declaration of the title of the plaintiff and also for a mandatory injunction. Pending trial, admittedly, after cross-examination of P.W.1 was completed, the plaintiff sought to amend the plaint by introducing a paragraph in the plaint pertaining to an oral partition that had taken place in the year 1974 and consequent issuance of patta Nos.311 and 644. The additional reliefs that have been sought for are to declare the Partition Deed dated 13.12.2004 as null and void and similarly the Sale Deed dated 24.09.2009 also as null and void.

10.It is the contention of the learned Senior Counsel that these reliefs are hopelessly barred by law of limitation and cannot be permitted once trial has commenced, especially when there is clear disclosure about the facts relating to



these documents even in the written statement filed. It is also contended that the

plaintiff has not chosen to take out the amendment application immediately after the written statement was filed and having slept over his rights, at the belated stage, the plaintiff cannot seek for amendment. However, on going through the plaint, I find that the substantive relief or a primarily relief that is sought for is to declare the plaintiff's title over the suit property and also for mandatory injunction by way of a direction to the 3rd defendant to remove the offending construction and to hand over possession to the plaintiff. When such relief of declaration of title has been sought for, it cannot be said that by seeking additional reliefs, challenging the registered Sale Deed and the registered Partition Deed, though of the year 2004 and 2009, it would alter the original cause of action or the character of the suit. It is only an aid of the declaratory relief that the plaintiff seeks for declaration that these documents are null and void. In order to substantiate the relief of declaration, an additional paragraph is sought to be included to clarify and amplify the case of the plaintiff. I do not see that these amendments that were proposed and sought by the plaintiff would in any manner result in altering or changing the cause of action or even the character of the suit itself.



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11.The Hon'ble Supreme Court in *Life Insurance Corporation of India's* case, (referred herein supra), has laid down guidelines for dealing with the amendment applications, clearly holding that all amendments are to be allowed which are necessary for determining the real question in controversy, provided it does not cause injustice or prejudice to the other side. The directions that have been issued include allowing amendments to avoid multiplicity of proceedings, as well as the amendment does not result in injustice to the other side and it does not divest the other side of a valuable accrued right. The Hon'ble Supreme Court further held that the Court should avoid a hyper technical approach and is ordinarily required to be liberal, especially when the opposite party can be compensated by costs and as long as the amendment is in respect to the relief in the plaint and is predicated on facts already pleaded in the plaint, the amendment is required to be allowed.

12.Testing the present case in the teeth of the guidelines laid down by the Hon'ble Supreme Court, I do not find that the Trial Court has committed any illegality or perversity in allowing the amendments. The revision petitioners have not been in any manner prejudiced because of the amendment and by merely allowing the amendment, no vested right of the defendant has also been taken away, even in the facts of the present case. In the light of the above, I am



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not inclined to interfere with the jurisdiction judiciously exercised by the Trial Court in permitting amendment of the plaint.

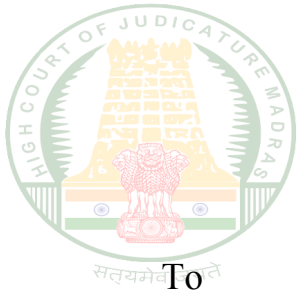
13.In fine, the Civil Revision Petitions are dismissed. There shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

28.07.2025

Speaking/Non-speaking order

Index : Yes/No

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The Principal District Munsif Court, Kallakurichi.

P.B.BALAJI.J,



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Pre-delivery order made in
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