



CRP.No.2216 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Order reserved on : 15.07.2025

Order pronounced on : 18.07.2025

CORAM

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

CRP.No.2216 of 2025
& CMP.No.12835 of 2025

Sivasamy

..Petitioner

Vs.

1.S.Kandasamy

2.The District Collector,
District Collector Office,
Ariyalur, Ariyalur Taluk & District.

3.The Revenue Divisional Officer,
Revenue Division Office,
Ariyalur, Ariyalur Taluk & District.

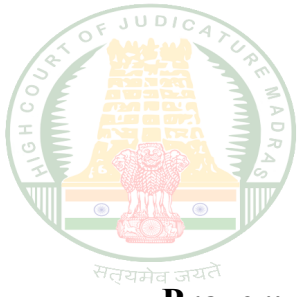
4.The District Revenue Officer,
District Revenue Office,
Ariyalur, Ariyalur Taluk & District.

5.The Tahsildar,
Taluk Office,
Ariyalur, Ariyalur Taluk & District.

6.Chinnathambi

..Respondents

*(Respondents 2 to 6 remain ex-
parte before the Trial Court.
Hence, notice may be dispensed
with)*



CRP.No.2216 of 2025

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order passed in I.A.No.06 of 2024 in O.S.No.90 of 2021 dated 07.02.2025 on the file of the Additional District Munsif, Ariyalur.

For Petitioner : Mr.S.Kamadevan

For Respondents : Ms.A.Arulmozhi for R1

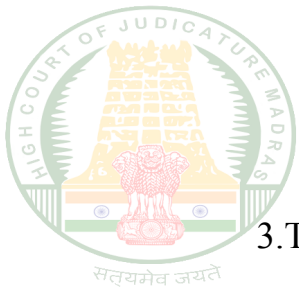
Mr.B.Tamilnithi, Addional Government
Pleader for RR2 to 5

R6 not ready in notice

ORDER

The plaintiff, aggrieved by dismissal of his application for amendment under Order VI Rule 17 of CPC, is before this Court by way of the present revision.

2.I have heard Mr.S.Kamadevan, learned counsel for the revision petitioner, Ms.A.Arulmozhi, learned counsel for the first respondent, Mr.B.Tamilnithi, learned Additional Government Pleader for respondents 2 to 5.



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3.The learned counsel for the petitioner, Mr.S.Kamadevan, would submit that the suit has been filed for declaring the sale deeds as null and void. He would state that the plaintiff has come forward with the amendment application even before commencement of trial and only seeks introduction of an alternate relief of easement, in addition to the relief of declaration and permanent injunction that has been sought for initially. The learned counsel for the petitioner would therefore state that no serious prejudice would be caused to the respondent/ defendant, if the amendment is ordered. He would also state that the Honourable Supreme Court as well as this Court have held that pre-trial amendments have to be considered liberally and viewed from this angle also, considering that the plaintiff is not introducing any new relief or altering the character of the suit, the amendment should have been ordered as prayed for.

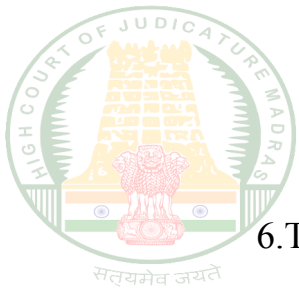
4.Per contra, Ms.A.Arulmozhi, the learned counsel for the 1st respondent would submit that the plaintiff has not approached the Court with clean hands. The plaintiff is not a bonafide purchaser and on the strength of fabricated and forged documents, the plaintiff had even went to the extent of modifying the Field Measurement Book (FMB). However, the plaintiff, according to the learned counsel for the 1st respondent, has suppressed subsequent events which



were brought to the notice of the Trial court and found favour with the court for

rejecting the application of the amendment. The learned counsel for the 1st respondent would further state that the plaintiff has purchased the property from one Chinnathambi, in and by a Sale Deed dated 17.06.2011. However, the extent purchased under the Sale Deed was 0.08 cents as against the entitlement of the vendor, Chinnathambi being only to an extent of 0.05 cents under a Sale Deed dated 26.05.2003, preceded by a Sale Deed dated 22.06.1993, under which the vendor of the said Chinnathambi, Kaliya Perumal himself purchased only an extent of 0.05 cents.

5.It is further contended by the learned counsel for the 1st respondent that on a complaint lodged by the 1st respondent, the vendor of the plaintiff executed a Rectification Deed, in and by which only the boundaries were altered, without modifying the extent from 0.08 cents to 0.05 cents. In view thereof, the 1st respondent had to further pursue legal action and ultimately on 15.09.2014, the Sale Deed in favour of the plaintiff came to be cancelled. Similarly, even the Rectification Deed executed on 19.07.2012 in favour of the plaintiff also came to be cancelled.



6.The learned counsel for the 1st respondent would further invite my attention to the FMB sketch that is relied on by the learned counsel for the revision petitioner and also enclosed in the typeset of papers along with the revision to contend that the said FMB was obtained on the basis of the Sale Deed dated 17.06.2011 and Rectification Deed dated 19.07.2012, which have been subsequently cancelled. It is therefore the contention of the learned counsel for the respondent that the alternate relief that is sought for on the basis of the fraudulent FMB obtained by the plaintiff cannot be entertained. She would therefore state that the Trial Court has rightly dismissed the application and the same does not warrant interference in the revision.

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

8.No doubt, as rightly contended by Mr.S.Kamadevan, learned counsel for the revision petitioner, the pre-trial amendments ought to be ordinarily entertained, liberally. However, it does not foreclose the right of the Trial Court to deny any amendment, which is sought to be mischievously or fraudulently sought to be made in the pleadings.

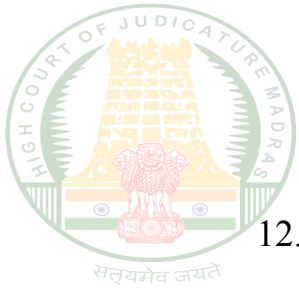


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9. On a reading of the plaint, I find that the plaintiff has made a fleeting reference to the Cancellation Deeds, in and by which the plaintiff's Sale Deed and Rectification Deed have been cancelled, however, casually mentioning that the documents were executed under undue influence, duress and pressure. However, the plaintiff has not chosen to seek any declaratory relief and the suit is filed only challenging the said Sale Deeds.

10. Having admitted that the Sale Deed and the Rectification Deed have been cancelled, the plaintiff cannot seek to place any reliance on the FMB, that has been issued on the basis of the documents that have already been cancelled.

11. On going through the order of the Trial Court, I find that the Trial Court has rightly held that for seeking a right of easement, the plaintiff, who approaches the Court has to admit the title of the defendant. However, in the present case, the plaintiff has specifically pleaded that the 1st respondent, contesting defendant has no right in the property and therefore, it is not permissible for entertaining the alternate relief of right of easement.



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12.In view of the above, I do not find any illegality or perversity in the findings rendered by the Trial Court, rejecting the request for dismissing the application for amendment of the plaint, even though the amendment sought for was pre-trial.

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

18.07.2025

Speaking/Non-speaking order

Index : Yes/No

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To

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P.B.BALAJI.J.

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Pre-delivery order made in
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