



WEB COPY

CRP No.355 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-11-2025

CORAM

THE HONOURABLE MR.JUSTICE S. SOUNTHAR

CRP No. 355 of 2024 and

CMP No.1663 of 2024

Soludaiyaraji (died)

1. Soludaiya Abimannan
S/O Late Soludaiyakolanthaiyan,

2. KODUKKAPAPAYAMMAL
W/O Late Soludaiyaraji,

petitioners 1 and 2 are residing at
Door No.13/3, Koludaiyampatti,
Valapur Nadu, Kolavankarai Post,
Kollimalai Taluk, Namakkal District.

3. Soludaiya rani
W/o. Sillaliramasamy, Erankulipatti,
Kolavan Post, Kollimalaitaluk,
Namakkal District.

4. Vijaya
W/o. Late Soludaiyaraji,

5. Iyyammal
W/o. Balamurugan, 3/3,



6. Anandasittan
S/o. Late Soludaiyaraji,

7. Minor Manikandan,
S/o. Late Soludaiyaraji,

8. Minor Dharmasastha,
S/o. Late Soludaiyaraji, (Minor
Represented by Guardian Mother
Vijaya),
petitioners 4 to 8 are residing at
3/3, Soludaiyampatti, Valapur Nadu,
Kolavankarai Post, Kollimalataluk,
Namakkal District.

Petitioner(s)

Vs

1. Sakkilithichellamuthu
S/o. Late Pazhanisamy Gounder,
Soludaiyampatti, Valapur Nadu,
Kolavankarai Post, Kollimalaitaluk,
Namakkal District.

2. Sakkilithi Ponnusamy
S/o. Late Pazhanisamy Gounder,
Soludaiyampatti, Valapur Nadu,
Kolavankarai Post, Kollimalaitaluk,
Namakkal District.

3. Sakkilithi Seerangan,
S/o. Late Pazhanisamy Gounder,
Soludaiyampatti, Valapur Nadu,
Kolavankarai Post, Kollimalaitaluk,
Namakkal District.



4.Sakkilithi Palanisami

S/o. (Late) Sakkilithi Manickam,
Erankuzhipatti, Kolavankarai Post,
Kollimalaitaluk, Namakkal District.

5.Sakkilithi Manikandan,

S/o. (Late) Sakkilithi Manickam,
Erankuzhipatti, Kolavankarai Post,
Kollimalaitaluk, Namakkal District.

6.Sakkilithi Vasanthi,

W/o. SillaliGanesan, Oyangukuzhipatti,
Kolvankarai Pst, Vallapur Nadu,
Kollimalaitaluk, Namakkal District.

7.Sakkilithiselvam @ Sellammal

W/o. Ravi Karumur, Semedu Post,
Kollimalaitaluk, Namakkal District.

8.Sakkilithivijaya

W/o. Manju, Kolathukuzhi, Semedu
Post, Kollimalaitaluk, Namakkal
District.

9.Nagarajan,

S/o. Henry Johnson, Sludaiyampatti,
Valapur Nadu, Kolavankarai Post,
Kolliailaitaluk, Namakkal District.

10.Sillaiponnusamy

S/o. Sillalipadaran, Oyangukuzhipatti,
Kolavankarai Post, Vallapur Nadu,
Kollimalaitaluk, Namakkal District.



11.Sillali Rajendran,
S/o. Sillalipadaran, Oyangukuzhipatti,
Kolavankarai Post, Vallapur Nadu,
Kollimalaitaluk, Namakkal District.

12.Tamilnadu Government
Rep. by District Collector, Namakkal,
Tiruchengode road, Namakkal Taluk,
Namakkal District.

Respondent(s)

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India to set To set aside the fair and decreetal order passed by the District Munsif Court, Sendamangalam in I.A.No.6 of 2021 in O.S.No.536 of 2020 dated 20.10.2022.

For Petitioner(s): Mr. M.Jaikumar

For Respondent(s): Mr.C.Sathish, Govt.Advocate
for R12

ORDER

This civil revision petition is filed, challenging the order passed by the Trial Court, dismissing the application filed by the petitioner, seeking amendment of plaint.

2. The petitioners herein/plaintiffs filed a suit in O.S.No.536 of 2020 for mandatory injunction, directing the official respondents to form a passage in the AB portion, shown in the plaint. Pending suit, an Advocate Commissioner was



appointed and he filed a report, wherein, he referred the adjacent properties, over which the petitioners claimed right, as P1, P2, P3 and P4. Based on the Advocate Commissioner's report, the petitioners filed the present application, seeking amendment of plaint, so as to include prayers for declaration and injunction. The said application was dismissed by the Trial Court and aggrieved by the same, the petitioners have come before this court.

3. The learned counsel appearing for the petitioners/plaintiffs would submit that the properties, shown as P1, P2, P3 and P4 in the Advocate Commissioner's plan have been in possession and enjoyment of the petitioners for more than 50 years and therefore, the petitioners filed an application seeking declaration of their title and for injunction, however, the Trial Court committed error in dismissing the amendment application.

4. A perusal of the plaint and the description of the property found in the plaint would indicate that the subject matter of the present suit is only with regard to passage- AB portion, as shown in the plaint. The properties, over which the plaintiffs claimed title now, were not at all shown in the subject matter of the suit plan. In the affidavit filed in support of the amendment application, it was stated by the petitioners that the Advocate Commissioner gave a finding with regard to their long possession. A perusal of Advocate Commissioner's report would indicate that he only referred the properties,



identified as P1, P2, P3 and P4, over which the petitioners claimed right.

Therefore, there is no finding by the Advocate Commissioner in his report that the petitioners possessed the said properties for quite a long time. Further, the Advocate Commissioner is not competent to give any opinion regarding the possession of the parties. As per the description found in the plaint, it is clear that the properties, over which the petitioners now seeks declaration, were not at all included in the schedule of property as subject matter of the suit. Therefore, the amendment sought for by the petitioners/plaintiffs for inclusion of prayer for declaration and injunction cannot be allowed and it would amount to changing the subject matter of the suit. The Trial Judge was justified in dismissing the said application for amendment of plaint and I do not find any error to interfere the same.

5. Accordingly, this civil revision petition is dismissed. There shall be no order as to costs. Connected miscellaneous petition is closed.

05-11-2025

Internet: yes

Index: Yes/No

Neutral citation: Yes/No

MST

To

The District Munsif, Sendamangalam.



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S.SOUNTHAR J.

MST

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