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C.R.P. (PD) No. 5075 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-10-2025

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

C.R.P. (PD) No. 5075 of 2025

and C.M.P.No.25559 of 2025

P.Rajendran
S/o.Palaniappan, Vadugapalayam,
Modachur Village, Gobichettipalayam Taluk,
Erode District.

..Petitioner/Defendant

Vs

1. Saraswathy
W/o.Late V.P.Ponnusamy,
2. Sathyavani
D/o.Late V.P.Ponnusamy,
Residing at Vadugapalayam, Modachur Village,
Gobichettipalayam Taluk, Erode District.

..Respondents/Plaintiffs

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decretal order dated 02-09-2025 made in I.A.No.10 of 2025 in O.S.No.158 of 2014 on the file of the District Munsif Court, Gobichettipalayam.

For Petitioner: Mr. N. Manoharan



For Respondents: Mr. T.Ganesan

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ORDER

The Civil Revision Petition is filed challenging the order passed by the trial Court allowing the application filed by the respondents/plaintiffs seeking amendment of the plaint.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

3. Originally, the respondents filed a suit for bare injunction. The respondents claimed their right under a WILL dated 23.07.1973 allegedly executed by one Maahaliammal in favour of the 1st plaintiff's husband and 2nd plaintiff's father viz., V.P.Ponnusamy. The petitioner filed the written statement and denied the validity of the WILL. The petitioner herein also claimed his right through two WILLS dated 04.11.1981 and 23.03.1984. In spite of denial of the WILL in favour of the plaintiffs and assertion of right under two separate WILLS filed by the defendant, the plaintiffs have not chosen to file a suit seeking declaration of validity of three WILLS. Subsequently, the trial commenced. After completion of the plaintiffs' side witness, D.W.1 and D.W.2



were examined on behalf of the defendant. At that stage, the plaintiffs have filed an application in I.A.No.10 of 2025 under Order VI Rule 17 of the Civil Procedure Code, 1908 (C.P.C.), seeking amendment of plaint for inclusion of prayer for a declaration that the WILL dated 23.07.1973 executed by Maahaliammal in favour of Ponnusamy is a valid one. The plaintiffs also seek to include prayer for declaration that WILLS relied on by the defendant were invalid documents. Though the amendment application has been filed after commencement of trial, in the affidavit filed in support of the amendment application, the plaintiffs have not stated any reason for the delay in filing the amendment application. WILL relied on by the plaintiffs was specifically denied by the defendant in the written statement, which was filed as early as 10.09.2014. In the written statement, the defendant also referred about the WILLS relied on by him. After ten years, the present amendment application has been filed without any reason for failure of the plaintiffs to seek amendment prior to the commencement of trial.

4. Proviso to Order VI Rule 17 of the C.P.C. reads as follows:

“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



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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 in spite of due diligence, the party could not have raised the matter before the commencement of trial. ”

After amendment of Order VI Rule 17 of the C.P.C. and incorporation of the proviso, a party seeking amendment, subsequent to the commencement of trial, must satisfy the Court that in spite of exercise of due diligence, he was not in a position to seek amendment prior to the commencement of trial. In the case on hand, the respondents/plaintiffs, in their affidavit, have not given any reason for their failure to seek amendment of plaint prior to the commencement of trial in spite of assertion by the defendant in the written statement. Therefore, the embargo under the proviso to Order VI Rule 17 of the C.P.C. has been attracted. The trial Court, without taking into consideration the proviso to Order VI Rule 17 of the C.P.C., simply allowed the amendment application.

5. In view of the above, the impugned order passed by the trial Court in I.A.No.10 of 2025 is set aside. The Civil Revision Petition stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.



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Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

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To

The District Munsif, Gobichettipalayam.



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S.SOUNTHAR, J.

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