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CRP Nos.5300 and 5301 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-11-2025

CORAM

THE HONOURABLE MR.JUSTICE S. SOUNTHAR

**CRP Nos. 5300 and 5301 of 2025 and
CMP No.26646 of 2025**

1. SELVARAJ

S/o. Duraisamy Naicker, No.326,
Fourth Main Road, Kamarajar Nagar,
Thiruvanmiyur, Chennai 600 004.

2. Sivakumar

S/o.Masilamani, No.84 New No.3
Village Main Road, Sholinganallur,
Chennai - 600 119.

Petitioner(s)

Vs

Punniyavathy (died),

1.V.Sekar

S/o. Vedagiri, No.2/67, Vembuliamman
Koil Street, Vandalur, Chennai-600 048.

2.V.Balu

S/o.Vedagiri, Residing at No.2/67
Vembuliamman Koil Street, Vandalur
Chennai - 600 048.



3.P.Devaki

W/o.Parthasarathi, at No.2/67

Vembuliamman Koil Street, Vandalur,
Chennai - 600 048.

Prema (died),

Masilamani (died).

4.Alamelu

D/o.Duraisamy Naicker, No.3/367,
Pillaiyar Kovil Street, Mettukuppam,
Chennai - 600 119.

Yamuna (died).

5.Loganayaki @ Premalatha

D/o.Masilamani, Residing at No.84
New No.3 Village Main Road,
Sholinganallur, Chennai - 600 119.

6.Sundari

D/o.Masilamani, Residing at No.84
New No.3 Village Main Road,
Sholinganallur, Chennai - 600 119.

7.Ramani

D/o.Masilamani, Residing at No.84
New No.3 Village Main Road,
Sholinganallur, Chennai - 600 119.

8.Amutha

D/o.Masilamani, Residing at No.84
New No.3 Village Main Road,
Sholinganallur, Chennai - 600 119.



9.V.Manickam

S/o.Vedagiri, No.5, Maduvappan
Naicken Street, Lakshmipuram ,
Chrompet, Chennai - 600 044.

10.Kothanayaki

W/o.Ekambaram, Old No.19/27,
Manimekala Street, Maraimalainagar -
603 209.

Respondent(s)

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of To set aside the order and decree passed in IA.No.6/2024 in O.S.No.209/2024 dated 19-07-2025 on the file of the Honble Dist.Munsif Cum Judicial Magistrate, Sholinganallur and allow the Civil Revision Petition.

For Petitioner(s): MR.T.N.Rajagopalan
FOR J.Abdul hadi

ORDER

These civil revision petitions are filed challenging the order passed by the Trial Court, allowing the applications for amendment filed by the respondents/plaintiffs.

2. The respondents 1 to 3/ plaintiffs filed a suit in O.S.No.693 of 2000 on the file of Principal District Munsif, Alandur against the petitioners and others seeking partition of the properties situated at Sholinganallur. They also filed yet another suit in O.S.No.516 of 2006 for partition on the file of Principal District Munsif, Alandur, in respect of the properties situated in Enjambakkam.



Subsequently, both the suits were transferred to the file of District Munsif cum Judicial Magistrate, Sholinganallur and the same were renumbered as O.S.No.207 of 2024 and 209 of 2024 respectively.

3. The plaintiffs filed applications in both the suits for amendment of the plaint and they wanted to include some new items which were not included in the original suits. The plaintiffs also wanted to amend the survey numbers and its extent of the existing items, by giving different extents. The said applications were allowed by the Trial Court. Aggrieved by the same, the defendants 2 and 6 in O.S.No.209 of 2024 and the defendants 2 and 8 in O.S.No.207 of 2024 have come before this court.

4. The learned counsel for the petitioners vehemently contended that similar amendment application was filed by the plaintiffs in I.A.No.81 of 2019 in O.S.No.693 of 2000 (renumbered as O.S.No.207 of 2024), while the said suit was pending on the file of District Munsif, Alandur and the same was withdrawn with liberty to file a fresh amendment application. Though the said application was withdrawn as early as on 31.07.2014, thereafter, the plaintiffs have not taken any steps to file fresh amendment application and after a lapse of 10 years, the present applications have been filed seeking inclusion of new items in the plaint along with prayer for amendment of survey numbers, extent of the existing items. The learned counsel also submits that the plaintiffs have



not given any acceptable reason for such long delay in filing the applications.

Therefore, the Trial Court committed a serious error in entertaining the applications. He also submits that if the proposed amendment is allowed, the plaint will go out of the pecuniary limits of the concerned court and therefore, the same shall not be entertained at the later point of time.

5. It is seen from the records that though both the suits are very old, trial in the suits is not commenced. Therefore, amendment sought for by the plaintiff is only a pre-trial amendment. It is settled law that in case of pre-trial amendment, court shall be very liberal. Delay in seeking amendment cannot be put against the plaintiffs, if the amendment sought for is necessary for deciding the lis in a comprehensive way.

6. In the case on hand, the suit is filed for partition and the plaintiffs want to include some other items in the suit on the ground that those items were left out at the time of institution of suit. If the suit is allowed to proceed further, without inclusion of items sought to be included by way of amendment, there is a danger of suit being dismissed on the ground of partial partition. In a suit for partition, all the properties available for partition shall be included, otherwise, the rights of the parties cannot be decided conveniently and comprehensively. Likewise, unless correct extent and subdivision numbers are given, there will be lot of difficulty in final decree stage and execution.



7. As far as the suit in O.S.No.516 of 2000 (renumbered as O.S.No.209 of 2024) is concerned, the plaintiffs have not filed any amendment application earlier and this is the first amendment application. As far as the suit in O.S.No.207 of 2024 is concerned, similar application was filed and the same was withdrawn with liberty to file a fresh application. Even assuming the present amendment application is dismissed on the ground of delay, it may not prevent the plaintiffs from withdrawing the suit and file a fresh suit for partition in respect of all the properties. In such circumstances, in order to avoid multiplicity of proceedings, this court feels that the amendment sought for by the plaintiffs shall be allowed, especially when the amendment is sought for prior to the commencement of trial.

8. The learned counsel for the petitioners also submits that the plaintiffs have not produced any document to show that the properties proposed to be included in the plaint are family properties. Whether the properties sought to be included in the plaint are really available for partition or not, is the matter to be decided at the time of final disposal, based on the evidence. While considering the petition for amendment, the trial court cannot go further to decide the same. Hence, the Trial Court rightly allowed the applications and I do not find any error to interfere with the same.



9. Accordingly, the civil revision petitions are dismissed, confirming the impugned order passed by the Trial Judge. There shall be no order as to costs.

Connected miscellaneous petition is closed. Taking into consideration the fact that the suits are more than two decades old, the Trial Court is directed to dispose of the same, as early as possible.

10.11. 2025

Internet: yes

Index: Yes/No

Neutral citation: Yes/No

MST

To

The District Munsif cum Judicial Magistrate,
Sholinganallur.



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S.SOUNTHAR J.

MST

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