



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.07.2025

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(PD)(MD)No.1860 of 2025

G.Periyasamy (Died)

1.G.Arumugam

2.Emili Elizabeth

3.Divya

4.Kavya

5.Udhaya

...Petitioners

Vs.

1.Rathinasamy

2.Govindaraj

...Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 19.02.2025 in I.A.No.6 of 2024 in O.S.No.335 of 2014 on the file of the learned District Munsif, Lalgudi.

For Petitioner : Mr.P.Ganapathi Subramanian

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ORDER

This Civil Revision Petition has been filed seeking orders to set aside the fair and decreetal order dated 19.02.2025 passed in I.A.No.6 of 2024 in O.S.No. 335 of 2014 on the file of the learned District Munsif, Lalgudi.

2. One G.Periyasamy and another one G.Arumugam filed a suit in O.S.No.335 of 2014 before the learned District Munsif, Lalgudi, against the respondents seeking : mandatory injunction directing the respondents to remove the encroachment in the petitioners' suit property; permanent injunction restraining the respondents, their men, agents, servants or anyone claiming under them from interfering with the peaceful possession and enjoyment of the suit property; costs of the suit; and other appropriate reliefs. During the pendency of the suit, the petitioners filed an interlocutory application in I.A.No. 6 of 2024 under Order VI Rule 17 r/w Section 151 CPC seeking amendment of the plaint. However, the said application was dismissed by the trial Court on 19.02.2025. Aggrieved by the same, the petitioners have filed the present Civil Revision Petition.

3. The learned counsel for the petitioners submitted that originally, the suit property belonged to one Govindasamy. After his demise, one Periyasamy / first plaintiff and the second plaintiff in the suit succeeded to the estate and were in possession and enjoyment of the property. The first plaintiff,



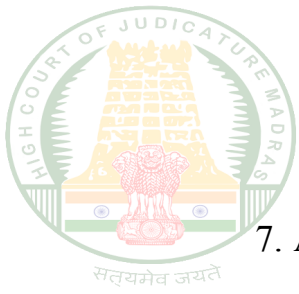
G.Periyasamy, later passed away, and his legal heirs were impleaded as respondents 3 to 5 in the suit / respondent Nos.2 to 5 in this petition. Upon

learning that the respondents were also asserting title over the suit property, the petitioners filed I.A.No.6 of 2024 seeking to amend the plaint to include the relief of declaration of title. The learned counsel further submitted that the trial Court erroneously dismissed the amendment application solely on the ground that the respondents had earlier filed a counter-claim in the year 2019, which was dismissed, and that the present amendment application was not filed within three years from the date of such dismissal. According to him, the cause of action is continuous, and hence, the amendment ought to have been allowed.

4. Heard the learned counsel for the petitioners.

5. Since no adverse orders are going to be passed against the respondents, notice to the respondents is dispensed with.

6. On consideration of the facts and circumstances of the case, it is admitted that the suit was filed in the year 2014 for mandatory and permanent injunction based on the petitioners' title. The counter-claim filed by the respondents in the year 2019 was dismissed. The present application for amendment of the plaint to include a relief of declaration was filed in the year 2024, i.e., after a lapse of more than three years.



7. As per Article 58 of the Limitation Act, 1963, the limitation period for seeking declaratory relief is three years from the date on which the right to sue accrues. The petitioners, having had knowledge of the respondents' claim over the property at the relevant point of time, ought to have sought the amendment within the prescribed period of limitation. The belated amendment application is clearly barred by limitation, and therefore, the trial Court was right in rejecting the same.

8. This Court finds no illegality or infirmity in the order passed by the learned District Munsif, Lalgudi. However, it is made clear that the observations made herein shall not influence the trial Court while deciding the main suit. The trial Court shall dispose of the suit independently, based on the pleadings and evidence on record.

9. Accordingly, this Civil Revision Petition stands dismissed. There shall be no order as to costs.

07.07.2025

Internet: Yes/No
Index: Yes/No
TSG



To

1.The District Munsif, Lalgudi.

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2.The Section Officer,
VR Section,

Madurai Bench of Madras High Court, Madurai.



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M.DHANDAPANI, J.

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