



C.R.P.(PD)(MD)No.1813 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.07.2025

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CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P(PD)(MD)No.1813 of 2025

and

C.M.P(MD) No.9927 of 2025

1. Kannan
2. Muthu

... Petitioners/Petitioners/
Plaintiffs

Vs.

1. Kanthasamy
2. Muppidathi
3. Krishnan
4. Subramanian

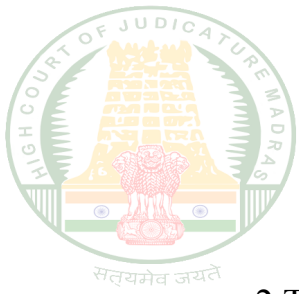
... Respondents/
Respondents/Defendants

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.2 of 2024 in O.S.No.187 of 2024, dated 22.04.2025, on the file of the Additional District Munsif Court, Tenkasi, by allowing this Civil Revision Petition.

For Petitioners : Mr.P.P.Alwin Balan

ORDER

This Civil Revision Petition is filed challenging the order passed in I.A.No.2 of 2024 in O.S.No.187 of 2024, dated 22.04.2025, on the file of the Additional District Munsif Court, Tenkasi.



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2.The petitioner herein filed a suit in O.S.No.187 of 2024 for declaration to declare the plaint second schedule property belongs to the plaintiffs and the third and fourth defendants; consequential injunction to restrain the defendants, his men and agents from interfering with the plaintiffs' peaceful possession and enjoyment over the plaint second schedule property and to remove the unlawful construction in the first schedule property and for mandatory injunction. During the pendency of the suit, the petitioner filed an amendment application seeking the relief of declaration of second schedule property as common pathway and the consequential injunction restraining the third and fourth defendants from interfering with the possession and enjoyment of the property. The said application was dismissed. Challenging the same, the present Civil Revision Petition is filed.

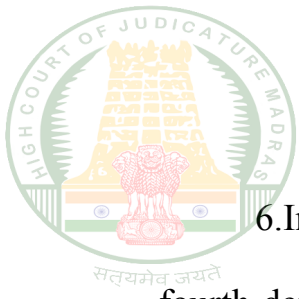
3.The learned counsel for the petitioner submitted that initially the petitioner claims that second schedule property belong to the petitioners/plaintiffs and the third and fourth defendants. Subsequently, the third and fourth defendants made construction in the second schedule property. Thereby, the petitioner filed an application to amend the plaint under Order VI Rule 17 of CPC for declaration to declare the suit property is a common pathway and to remove the encroachment made by the third and fourth



defendants in that property. The trial Court dismissed the said application on the ground that the petitioner wanted to introduce a new cause of action and the same is impermissible in terms of the judgment rendered by the Hon'ble Supreme Court in 2024 LIVELAW (SC). The learned counsel for the petitioner contends that the amendment sought by the petitioner will not change the cause of action of the original plaint. The petitioner sought to implead the relief of removal of encroachment made by the third and fourth defendants in the suit property and same will not alter the character of the suit. Hence ,he prays for appropriate order.

4.Since no adverse order is going to be passed as against the respondents, notice to the respondents is dispensed with.

5.The facts in the present case are not in dispute. The suit was originally filed by the plaintiffs for declaration to declare the second schedule property belongs to the petitioners/ plaintiffs and the third and fourth defendants and for removal of encroachment made by the first defendant. Thereafter, the present amendment petition is filed to declare the suit property as common pathway and for removal of encroachment allegedly made by the third and fourth defendants in the subject property.



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6.Initially, the petitioners /plaintiffs themselves agreed that the third and fourth defendants are also the owners of the property along with the petitioners and hence, sought to remove the encroachment made by the first defendant. Now, the amendment is sought by introducing the new cause of action as if the third and fourth defendants are not the owners of the property and the suit property is the common property. Introducing a new cause of action cannot be entertained by way of amendment of plaint. That issue was rightly appreciated by the trial Court and dismissed the application filed by the petitioner seeking amendment of plaint and the same need not be interfered.

7.Accordingly, this Civil Revision Petition stands dismissed. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

14.07.2025

Index : Yes/No
Internet : Yes / No
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To
1.The Additional District Munsif Court,
Tenkasi.

2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI,J.

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