



WEB COPY

CMP No. 1455 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-02-2026

CORAM

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CMP No. 1455 of 2026

IN

SA NO. 871 OF 2022

Mallika (Died)

1. Arumugham
S/o.Alagapa Padayachi
Pughalendhi Street,
Ariyalur Taluk, Ariyalur District
2. Sumathi
W/o.Senthil
Varanavasi, Ariyalur Taluk
Ariyalur District
3. Sasikala
W/o.Arumugham
Pughalendhi Street,
Ariyalur Taluk, Ariyalur District
4. Geetha
W/o.Arivazhagan
Manambadi Village
Thiruvidaimuruthur Taluk
Tanjore District

..Appellant(s)

Vs

Pakkiyathammal
W/o.Chidamaram Kadanthaiyar
Siluppanoor,
H/o.Thalavai, Sendurai Taluk
Ariyalur District

..Respondent(s)

**PRAYER IN CMP No. 1455 of 2026**

Civil Miscellaneous Petition filed under Order 6 Rule 17 r/w 151 of C.P.C., praying to permit the petitioners to amend the prayer in OS No.113/2013, on the file of Principal Sub Judge, Ariyalur as

1) to pass a decree for Specific Performance of registered agreement of sale dt. 27.04.2011 by directing the defendant to execute a registered sale deed in the name of the plaintiffs in respect of the suit property at the expenses of the plaintiffs and the defendant failing to do so, this court itself executing the registered sale deed by its court process and for possession of the suit propriety to the plaintiffs from the defendant and costs to be paid by the defendant and for such or other relief or in the alternative

2) To pass a Judgment and decree directing the defendant to refund an amount of Rs.2,25,000/- with interest at 18 per cent p.a. from 27.11.2011 and the said amount having a charge on the suit property till the date of realisation of the decree.

For Appellant(s): Mr. S.Kamadevan

For Respondent(s): Mr.Deeraj for
M/s.P.V.Law Associates

ORDER

This Civil Miscellaneous Petition has been filed seeking to amend the prayer in O.S.No.113 of 2018 on the file of Principal Sub-Judge, Ariyalur to pass a decree for Specific Performance of registered agreement of Sale dated 27.04.2011 by adding the alternative prayer for refund of amount as described in the details of amendment.



2. Mr.S.Kamadevan, learned counsel for petitioners/appellants submitted that due to inadvertent mistake, the petitioner omitted to pray for the alternative relief of refund of the amount paid towards the sale consideration in terms of Sec.22 of Specific Relief Act. He would further submit that the petitioner was advised to seek for alternative relief by way of abundant caution by seeking necessary amendment in the plaint and the same would not any way change the nature and character of the suit. Accordingly, he has filed the above petition praying to amend the plaint in O.S.No.113 of 2018.

3. Mr.Deeraj, learned counsel appearing for respondent/respondent appeared and raised strong objections in allowing this petition.

4. Considering the facts and circumstances, and as per his objections, he has disputed the amount also, but it is a settled proposition, suitable opportunity must be given to the plaintiff, when the plaintiff failed to seek for alternative remedy while filing the suit,. If the opportunity is not given to him, his valid defence will be defeated. Therefore, without prejudice to the objections raised by the respondent, this court is inclined to allow this petition.

5. Registry is directed to carry out necessary amendment in the plaint and post the matter for arguments on 26.02.2026.

16-02-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

RPP



To

1. The Principal District Judge, Ariyalur.
2. The Principal Sub-Judge, Ariyalur.
3. The Section Officer, VR Section, Madras High Court.



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T.V.THAMILSELVI J.

RPP

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