



WEB COPY

CRP No. 460 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-02-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

CRP No. 460 of 2026 and

CMP.No.2545 of 2026

Palanisamy

..Petitioner(s)

Vs

1. Selvam @ Selvi
2. Sivagami
3. Senthilkumar

..Respondent(s)

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the fair and decreetal order dated 14.11.2025 made in IA.No.7 of 2025 in OS.No.92 of 2023 on the file of the Additional District Munsif Court at Namakkal

For Petitioner(s):

M/s.T.L.Thirumalaisamy

ORDER

The civil revision petition is filed challenging the order passed by the trial court allowing the application for amendment filed by the respondents 1 and 2/plaintiffs.



2. The respondent 1 and 2 filed a suit for declaration and permanent injunction in respect of suit cart track. Now, the instant application has been filed by the respondents 1 and 2 seeking to introduce a prayer for mandatory injunction in the plaint. According to the respondents 1 and 2, pending suit, the petitioner and other defendant obliterated the suit cart track and put up mango saplings. Therefore, they filed application for amendment seeking to introduce a prayer for mandatory injunction to restore the suit cart track. The said application was allowed by the trial court. Aggrieved by the same, the petitioner/first defendant in the suit has come before this court.

3. The learned counsel for the petitioner submitted that the alleged cart track claimed by the respondents 1 and 2 was never in existence and the respondents 1 and 2 high-handedly removed the trees put up by the petitioner in the suit cart track and attempted to create evidence as if there was a cart track in the middle of the property belongs to the petitioner. Therefore, the trial court ought not have allowed the amendment application filed by the respondents 1 and 2.

4. It is the specific case of the respondents 1 and 2/plaintiffs that the suit cart track which was available on the date of filing of the suit was obliterated by the defendants pending suit and therefore, they want to introduce a prayer for mandatory injunction to restore the suit cart track. As per the case of the petitioner, the suit cart track was not in existence. The respondents 1 and 2 are



attempting to create evidence as if the suit cart track was in existence and it was obliterated. Whether the suit cart track was in existence on the date of filing of the suit and whether it was obliterated pending suit, etc., are all questions which requires evidence. Therefore, at the stage of considering the amendment application, the Court cannot go into the disputed question. Therefore, in order to resolve the controversy between the parties, the amendment application filed by the respondents 1 and 2 shall be allowed and the parties shall be permitted to lead evidence in support of their respective pleadings. The trial court rightly appreciated the position and allowed the amendment application. I do not find any error in the impugned order passed by the trial court. Accordingly, the civil revision petition stands dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

05-02-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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To

The Additional District Munsif Court at Namakkal



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S.SOUNTHAR, J.

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