



WEB COPY

CRP No. 470 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-01-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

CRP No. 470 of 2024 and

CMP No.2222 of 2024

V.Periyannan
S/o Vedichi Goundar, No.5/51, Ellappan Kadu,
Ariyanoor, Salem District.

..Petitioner(s)

Vs

1. Palaniyappan S/o Late Erusa Goundar,
2. Vaiyapuri S/o Late Erusa Goundar,
3. Kandasami S/o Late Erusa Goundar,
4. Kandhammal, D/o Late Erusa Goundar
5. Chinnaponnu, D/o Late Erusa Goundar,
6. Alamelu, D/o Late Erusa Goundar,
7. Vijaya, D/o Late Erusa Goundar,

respondents 1 to 7 residing at Pannankadu,
Nallarayanpatti Village, Veerapandi Post,
Salem Taluk.

..Respondent(s)

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India to set aside the fair and decreetal order dated 21.07.2023 passed in IA.No. 3 of 2023 in OS.No. 169 of 2019 on the file of the Principal District Munsif, Salem.



For Petitioner(s): Mr. P.Jagadeesan

For Respondent(s): Mr.D.M.Senthil Kumaar

for R1 to R3

R4, R5 and R7- No appearance

R6- Unclaimed

ORDER

This Civil Revision petition is filed challenging the order passed by the Trial Court, dismissing the application filed by the petitioner seeking amendment of plaint to include the prayer for declaration.

2. It is not disputed that the petitioner herein/ plaintiff filed a suit for bare injunction. The respondents/defendants filed written statement on 05.11.2019 denying the title of the petitioner. Thereafter, instant application has been filed by the petitioner on 02.12.2022 seeking inclusion of prayer for declaration. The said amendment application was dismissed by the Trial Court on the ground that the amendment sought to be included by way of amendment is barred by limitation. Aggrieved by the same, the petitioner has come before this court.

3. The learned counsel for the petitioner would submit that if the Covid period between 15.03.2020 to 28.02.2022 is excluded, as per the order passed by the Apex Court in Suo Motu Writ Petition (C) No.3 of 2020 dated 10.01.2022, the amendment application will fall within the limitation period of



3 years and the Trial Court failed to take into consideration the Covid exclusion period and dismissed the amendment application.

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4. The learned counsel for the respondents would submit that though the respondent filed written statement on 05.11.2019 denying the title of the petitioner, amendment application has been filed by the petitioner only on 02.12.2022. Therefore, the petitioner failed to exercise due diligence in filing the amendment application. Hence, on the said ground also, the amendment application is liable to be dismissed.

5. It is seen from the impugned order that Trial in the suit has not been commenced and the amendment application has been filed even prior to the commencement of Trial. Hence, proviso to Order VII Rule 17 is not attracted and consequently, the question of establishing exercise of due diligence will not arise. Therefore, the said contention of the learned counsel for the respondents is rejected. The Apex Court in *Suo Motu W.P.(C) No.3 of 2020* dated 10.01.2022, stated above, categorically held that the period from 15.03.2020 to 28.02.2022 shall stand excluded for the purpose of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.



6. In the case on hand, the respondents filed written statement denying the title of the petitioner on 05.11.2019. Three years limitation period expires on 04.11.2022 and the amendment application was filed on 12.12.2022. However, if the period between 15.03.2020 to 28.02.2022 stood excluded, as per the order passed by the Apex Court, cited above, the amendment application has been filed very well within the limitation period. Therefore, the order impugned in this civil revision petition is set aside.

7. Accordingly, this civil revision petition is allowed and the impugned order is set aside. Consequently, I.A.No.3 of 2023 in O.S.No.169 of 2019 is allowed. There shall be no order as to costs. Connected miscellaneous petition is closed.

23-01-2026

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

MST

To

The Principal District Munsif, Salem.



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S.SOUNTHAR, J.

MST

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