



C.R.P.No.185 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2026

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.185 of 2026
and C.M.P.No.786 of 2026

M.Aasai Thambi

... Petitioner

VS.

1.G.Jayaseelan

2.G.Gajendiran

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order and decreetal order made in I.A.No.1 of 2019 in A.S.No.4 of 2018 dated 29.11.2024 on the file of the Additional Subordinate Judge, Vellore, Vellore District.

For Petitioner : Mr.M.R.Thangavel

ORDER

The Civil Revision Petition is filed challenging the order passed by the Additional Subordinate Judge, Vellore District in I.A.No.1 of 2019 in A.S.No.4 of 2018, dated 29.11.2024 dismissing the application filed by the petitioner seeking amendment of the plaint.



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2. The petitioner herein filed a suit for declaration of title and recovery of possession against the respondents and the same was decreed by the Trial Court. Aggrieved by the same, the respondents filed an appeal in A.S.No.4 of 2018 on the file of the Additional Subordinate Court, Vellore. During the pendency of the appeal, the petitioner herein filed an instant application seeking amendment of the plaint to include an item, which was not included at the time of presentation of the plaint. The said amendment application was dismissed by the First Appellate Court. Aggrieved by the same, the petitioner has come before this Court.

3. The learned counsel appearing for the petitioner would submit that the property sought to be included by way of amendment was inadvertently omitted to be mentioned at the time of filing of the plaint and after discovering the omission, the present application has been filed. It is also stated that in the application filed by the petitioner before the Trial Court seeking temporary injunction, the property sought to be included in the plaint was also mentioned. Unfortunately, that property was omitted to be included in the plaint.



4. If the petitioner is permitted to include a new property by way of amendment in the first appellate stage, necessarily the parties shall be given an opportunity to lead evidence.

5. Proviso to Order 6 Rule 17 of the Code of Civil Procedure, creates an embargo on the parties from seeking amendment of the pleading after commencement of the trial, unless they satisfy the Court that despite exercising due diligence, they were prevented from seeking amendment.

6. In the case on hand, in the affidavit filed in support of the amendment application, the petitioner has not given any reason for his failure to find out the alleged omission. Had he exercised due diligence, he would have certainly found the omission and included the property before the Trial Court itself, that too before the commencement of the trial.

7. The facts narrated above would indicate gross negligence on the part of the petitioner, as he omitted to include the item, which was included in the application for temporary injunction. In view of the bar under Proviso to Order 6 Rule 17 of Code of Civil Procedure, this Court is not inclined to entertain the amendment application filed by the petitioner before the First Appellate Court.



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8. Accordingly, the Civil Revision Petition stands dismissed. The dismissal of the amendment application will not preclude the petitioner from filing a fresh suit in respect of the said item, seeking appropriate relief, subject to law of limitation. No costs. Consequently, the connected civil miscellaneous petition is closed.

20.01.2026

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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To

The Additional Subordinate Judge,
Vellore, Vellore District.



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S.SOUNTHAR, J.

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