



WEB COPY

CRP No. 4659 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-04-2026

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THE HON'BLE MR.JUSTICE K.RAJASEKAR

**CRP No. 4659 of 2023
and
CMP No.27717 of 2023**

Veerasamy @ Chandran
S/o.Alwar Naidu, Bazar St,
Chinnasalam Town,
Chinnasalem Tk.

..Petitioner(s)

Vs

Thangapappa
W/o.Thangarasu, Bazar St,
Chinnasalam Town,
Chinnasalem Tk.

..Respondent(s)

Civil Revision Petition filed under Article 227 of the Constitution of India, prayed to call for the records relating to I.A.No.214 of 2023 in O.S.No.82 of 2019 on the file of the Principal District Munsif Court, Kallakurichi, dated 23.06.2023 and set aside the same and allow the CRP.

For Petitioner(s): M/s. R. Divya Preathika
for Mr. R. Bharath Kumar

For Respondent(s): No Appearance



ORDER

WEB COPY This Civil Revision Petition has been filed by the petitioner/defendant, challenging the order dated 23.06.2023 passed in I.A.No.214 of 2023 in O.S.No.82 of 2019 on the file of the Trial Court, whereby the application filed by the respondent herein/plaintiff, under Order VI Rule 17 of Code of Civil Procedure, 1908 (in short, C.P.C.), seeking amendment of the plaint, was allowed.

2. The respondent/plaintiff originally filed the suit in O.S.No.82 of 2019, seeking a decree for permanent injunction injuncting the defendant from causing any damage to the common compound wall.

3. It is the case of the plaintiff that the suit property consists of a common compound wall, shared between the plaintiff and the defendant. According to the plaintiff, while constructing his house, the defendant attempted to reduce the actual width of $\frac{3}{4}$ feet size of the common compound wall. Hence, the plaintiff filed the suit seeking permanent injunction injuncting the defendant from interfering with or damaging the compound wall. But during pendency of suit, the wall was damaged, hence to restore the same to its original position, the plaintiff has come forward with the amendment petition to amend the prayer to mandatory injunction instead of permanent injunction and to



restore it to its original position in respect of the compound wall.

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4. The defendant resisted the suit contending that there existed a prior agreement, dated 08.05.2007 between the parties, wherein both parties had agreed to construct their respective buildings adjoining the common compound wall. It is further contended that the defendant had constructed his building in accordance with the said agreement and has not caused any damage to the adjoining common compound wall.

5. During the pendency of the suit, an Advocate Commissioner was appointed, who inspected the suit property and filed a report indicating that there were certain alterations in the compound wall and that the width of the wall had been reduced at certain places.

6. In view of the said development, the plaintiff filed I.A.No.214 of 2023 in O.S.No.82 of 2019 under Order VI Rule 17 of C.P.C., seeking to amend the plaint by modifying the relief from one of permanent injunction to the one of mandatory injunction, directing the defendant to restore the common compound wall to its original position.

7. The defendant opposed the said application on the ground that the amendment would change the nature and character of the suit itself and that the



plaintiff, having originally sought only bare injunction, cannot now seek restoration of common compound wall after completion of construction. It was further contended that the amendment is intended only to cause prejudice to the defendant.

8. The Trial Court, after considering the pleadings made on both sides and taking into account the report of the learned Advocate Commissioner, allowed the application for amendment. Aggrieved by the same, the present Civil Revision Petition has been filed by the defendant.

9. The learned counsel for the petitioner/defendant submitted that the construction has already been completed and that the relief that has been sought in the amendment petition, for the purpose of causing damage to the common compound wall and the learned Advocate Commissioner has also submitted the same report stating that the house has already been constructed. Though the prayer is seeking for the damage made and that it was not proved by the respondent herein/plaintiff, however, the relief claimed in the interlocutory application was allowed, and that it will change the nature of the suit itself and the same is unnecessary.

10. There is no representation on behalf of the respondent, though they had entered appearance.



11. This Court has considered the submissions made by the learned counsel for the petitioner and perused the materials available on record.

12. On the scrutiny of the plaint and other materials, it is seen that there is a dispute regarding the maintenance of the compound wall. It is alleged that, before constructing the house of the defendant, there was an agreement entered into between the parties enabling the defendant to construct his house on the Eastern side of the adjoining common compound wall between the properties of the plaintiff and the defendant. Accordingly, while constructing the house of the defendant, it is alleged that he has attempted to reduce the size of the common compound wall. In such circumstances, cause of action had arisen, and the plaintiff has filed the suit seeking bare injunction injuncting the defendant from damaging the suit compound wall.

13. During pendency of the trial, the report of the learned Advocate Commissioner was also filed indicating that there are certain alterations in the size of the compound wall from $\frac{3}{4}$ feet to reduced size. This has prompted the plaintiff for filing an amendment petition in I.A.No.214 of 2023 in O.S.No.82 of 2019, seeking to modify the earlier relief into mandatory injunction, to restore the common compound wall to its original position on the ground that



the defendant has reduced the actual width size of $\frac{3}{4}$ feet of the compound wall.

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14. This Court is of the view that the amendment relief sought for by the plaintiff is proper one. Though the initial relief was for permanent injunction to protect the compound wall from any damage, and when once the plaintiff came to know that the damage has already been caused by the defendant by reducing its actual width, it is also proper that the plaintiff may seek the relief to restore the damaged portion without causing prejudice to the other side.

15. In the present case, the averments and the pleadings made in the plaint, including the written statement and other documents would reveal that there is a dispute regarding reducing the size of the compound wall. Such being the case, it is appropriate to permit the plaintiff, seeking appropriate relief and it should not be construed that it will cause prejudice to the interest of the defendant.

16. The Trial Court has properly considered the application filed by the plaintiff and allowed the same on the ground that the amendment sought by the plaintiff is only to modify the relief based on subsequent developments and it does not create a new cause of action.



17. Therefore, this Court finds no reason to interfere with the impugned order dated 23.06.2023 in I.A.No.214 of 2023 in O.S.No.82 of 2019 passed by the learned Principal District Munsif, Kallakurichi, and the same is hereby confirmed.

18. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is also closed.

01-04-2026

Neutral Citation: Yes/No

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To

1. The Principal District Munsif, Kallakurichi.
2. The Section Officer, V.R. Section, High Court of Madras.



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K.RAJASEKAR, J.

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