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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-02-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

CRP Nos. 496, 500 and 502 of 2026 and

CMP Nos.2721, 2728 and 2726 of 2026

1. Mohala, W/o.Bhaskar Jaisingh,
No.2, Ellaiamman Koil Street,
Link Road, Panruti,
Panruti Taluk.
2. Chitra, D/o.Rajaram Singh,
No.2, Ellaiamman Koil Street,
Link Road, Panruti,
Panruti Taluk.

..Petitioner(s) in
All CRPs

Vs

1. Veeraraghavan, S/o.Muthal Chettiar,
No.8, 2nd Street, Police Line,
Panruti, Panruti Taluk.
2. M.Siva, S/o.Manicka Mudhaliyar,
No.6/4, Muthiah Nagar,
Kokkupalayam Road, Thattanchavadi,
Panruti, Panruti Taluk.
3. Rani, W/o.Siva,
No.6/4, Muthiah Nagar,
Kokkupalayam Road, Thattanchavadi,
Panruti, Panruti Taluk.

..Respondent(s) 1 to3 in
all CRPS



4. V.Malathy Ammal, W/o late Damodara Nayar,
Ashok Nivas Illam, Kallur Post,
Annamanada, Trichur District,
Kerala State.

4th respondent in
CRP No.502 of 2026

Common Prayer in CRP Nos.496, 500 and 502 of 2026: Civil Revision Petitions filed under Article 227 of Constitution of India to aside the Order dated 02.12.2025 in I.A.Nos.22 of 2020, 17 of 2024 and 30 of 2024 respectively in AS.No.20 of 2017 in O.S.No.424/2004, on the file of Subordinate Judge, Panruti.

In all CRPs

For Petitioner(s): Mr.T.Mohan, Senior Advocate
for Mr.P.Munusami

For Respondent(s) : Mr.N.Palanikumar for R2 and R3

COMMON ORDER

CRP No.496 of 2026 is arising out of the dismissal of petition for amendment of plaint in the first appeal stage.

2. CRP No.500 of 2026 is arising out of dismissal of petition seeking to amend the main amendment application filed by the plaintiffs to amend the plaint, pending first appeal.

3. CRP No.502 of 2026 is arising out of dismissal of petition to implead the predecessor in title of the defendants as one of the parties/defendants.



4. The petitioners herein/plaintiffs, who are all the appellants in the main first appeal in A.S.No.20 of 2017, filed a suit in O.S.No.424 of 2004 seeking declaration of title and permanent injunction restraining the respondents/defendants from putting up construction in the suit B schedule property and for mandatory injunction to remove the construction already put up by the defendants in the suit wall in suit B schedule property. They also sought for declaration and recovery of vacant possession in respect of the suit C Schedule property. The suit filed by them was dismissed by the Trial Court, Aggrieved by the same, the petitioners/plaintiffs filed the first appeal.

5. Pending first appeal, the petitioners filed an application in I.A.No.22 of 2020 to amend the plaint, seeking to introduce averments in the plaint, in respect of earlier litigations in O.S.No.119 of 1956 between the plaintiffs' parents Rajaram Singh, Rajalakshmi and one Rahamath Ali Khan. In the application seeking amendment, it was stated by the petitioners that while preparing the arguments in the first appeal, the petitioners' present counsel found that certain legal matters relating to the decision rendered in the earlier litigation had been omitted to be pleaded in the plaint. Therefore, based on the advice tendered by the counsel, the petitioners filed the instant amendment application seeking to introduce the plea regarding earlier litigation in O.S.No.119 of 1956. The said application was dismissed by the first appellate court. Aggrieved by the same, the petitioners have filed CRP No.496 of 2026.



6. In the amendment application filed by the petitioners in I.A.No.22 of 2020 seeking to introduce a plea regarding earlier litigation, certain mistakes had crept in. Therefore, according to him, the petitioners filed yet another application in I.A.No.17 of 2024 in the first appeal seeking to amend the original amendment application in I.A.No.22 of 2020. The said amendment application was dismissed by the first appellate court on similar reasoning. Therefore, challenging the said order, CRP No.500 of 2026 has been filed.

7. Apart from the above two applications, the petitioners also filed an application in I.A.No.42 of 2019 to receive additional documents and the same was also dismissed by the first appellate court. Aggrieved by the same, CRP No.499 of 2026 has been filed and the same will be dealt with separately.

8. Apart from the above three applications, the petitioners also filed I.A.No.30 of 2024 in the first appeal to implead the predecessor in title of the defendants, namely Malathi Ammal, as a party/4th defendant in the suit in O.S.No.424 of 2004. The said application was dismissed by the first appellate court. Aggrieved by the same, CRP No.502 of 2026 has been filed by the petitioners.



9. CRP No.496 of 2026

The learned Senior Counsel appearing for the petitioners would vehemently contend that the decision rendered in the earlier litigation would have a direct bearing on the outcome of the present suit. Therefore, the plea regarding earlier litigation is very vital to support the case of the petitioners/plaintiffs. Therefore, according to him, the first appellate court ought to have allowed the said petitions. He also submitted that the presence of the predecessor in title of the defendants is very much essential to decide the controversy involved in the suit.

10. A close reading of the typed set of papers, especially the judgment rendered by the Trial Court would indicate that the judgment and decree passed in the earlier litigation, referred in amendment application, namely O.S.No.119 of 1956 were already marked before the Trial Court as Ex.A18 and Ex.A19. Moreover, the Advocate Commissioner's report, plan, etc. filed in O.S.No.119 of 1956 have been marked as Ex.A16 and Ex.A17. Therefore, it is very clear that the petitioners were aware of the earlier litigation, even when the trial was going on in the present suit and realising the impact of earlier litigation, the petitioners filed Judgment and Decree, Advocate Commissioner's report and plan in the earlier litigation. In such circumstances, the reasons given by the petitioners that only after the advice rendered by the present counsel in the first appeal, they realised the omission to include the earlier litigation in the



pleadings, cannot be accepted. Had the petitioners exercised due diligence, they could have filed the amendment application, even prior to commencement of trial or atleast before the Trial court, when they marked documents relating to the earlier litigation. Therefore, in view of the embargo under the proviso to Order VI Rule 17 of CPC, the petitioners, who failed to exercise due diligence, cannot be allowed to amend the pleadings in the first appeal stage, so as to include the averments in the plaint relating to the earlier litigation in O.S.No.424 of 2004.

11. In *Vidyabai and others Vs. Padmalatha and others reported in (2009) 2 SCC 409*, the Apex Court categorically held that the proviso to Order VI Rule 17 is mandatory and the parties seeking amendment of pleading after commencement of trial, must establish before the court that inspite of exercise of due diligence, they were not in a position to seek amendment of plaint.

12. In the case on hand, in view of the facts narrated above, the petitioners failed to exercise due diligence and seek amendment of plaint, prior to commencement of trial. Therefore, the first appellate court is perfectly justified in dismissing the amendment application in I.A.No.22 of 2020. I do not find any error in the order passed by the first appellate court. ***Accordingly, CRP No.496 of 2026 stands dismissed.***



13. CRP No.500 of 2026

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This court already came to the conclusion that I.A.No.22 of 2020 filed by the petitioners, seeking amendment of plaint cannot be allowed, in view of the mandatory embargo under proviso to Order VI Rule 17. I.A.No.17 of 2024 has been filed by the petitioners seeking to amend the amendment application in I.A.No.22 of 2020, since certain mistakes had crept in while filing the said application. Since the main application in I.A.No.22 of 2020 itself was dismissed, the reasoning given for dismissal of the main amendment application holds good for the petition to amend the amendment application also. Since no purpose will be served by allowing the petition to amend the main amendment application, when the same itself is dismissed, the first appellate court was justified in dismissing the I.A.No.17 of 2024 also. ***Accordingly, CRP No.500 of 2026 stands dismissed.***

14. CRP No.502 of 2026

A perusal of the plaint averments would indicate that the petitioners referred about the purchase of the suit property by the first defendant and the defendants 2 and 3 from the proposed party Malathi Ammal under two registered sale deeds dated 16.06.2003 and 17.03.2003 respectively. Therefore, it is clear that the suit properties were sold by the proposed party in favour of the defendants, even prior to the filing of suit.



15. On the date of presentation of the plaint, the proposed impleading party did not have any right over the suit property and the property was sold to the defendants by way of registered sale deeds. Further, the petitioners/ plaintiffs have not pleaded any cause of action against the previous owner. Therefore, the presence of predecessor in title of the defendant is not at all necessary to decide the controversy involved in the suit. Further, impleading the predecessor in interest of the defendants in the first appeal will necessarily result in de novo trial. The main aim of the petitioners appear to be dragging on the proceedings, by impleading the person, who sold her interest in favour of the defendants. The first appellate court rightly appreciated the said position and dismissed the impleading petition. ***Accordingly, CRP No.502 of 2026 stands dismissed.***

16. In view of the discussion made earlier, I do not find any error in the impugned orders passed by the Trial Court, dismissing I.A.No.22/2020, I.A.No.17/2024 and I.A.No.30/2024. Accordingly, CRP No.496, 500 and 502 of 2026 are dismissed. There shall be no order as to costs. Connected miscellaneous petitions are closed.

11-02-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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CRP Nos. 496, 500 & 502 of 2



To

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The Subordinate Judge, Panruti.



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CRP Nos. 496, 500 & 502 of 2



S.SOUNTHAR, J.

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CRP Nos. 496, 500 and 502 of 2026

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