



C.R.P.(MD) No.722 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.03.2026

CORAM

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

**C.R.P.(MD) No.722 of 2026
and
CMP(MD) No.3360 of 2026**

1.Gurusamy

Manguthai (died)

2.Selvarani

3.Seenivasan

... Petitioners

vs.

1.Panchavaranam

2.Selvaraj

3.Rajendran

4.Selvarani

5.Thangapushpam

... Respondents

PRAYER: Petition filed under Article 227 of the Constitution of India, to set aside the order dated 04-09-2025 made in I.A.No.1 of 2025 in O.S.No.181 of 2022 on the file of Subordinate Court, Usilampatti.

For Petitioners : Mr.Ramakrishnan for
Mr.R.G.Shankar Ganesh



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ORDER

Heard Mr.Ramakrishnan for the petitioners.

2.This Civil Revision Petition challenges the order passed by the learned Subordinate Judge at Usilampatti in I.A.No.1 of 2025 in O.S.No.181 of 2022, dated 04.09.2025.

3.By the said order, the learned Subordinate Judge at Usilampatti allowed the application for amendment filed by the plaintiffs.

4.The plaintiffs presented a suit for declaration and other reliefs. The same was received by the Court and numbered as O.S.No.181 of 2022.

5.It is the allegation of the plaintiffs that pending the suit, sometime in December 2024, the defendants had encroached upon the suit property by putting up a construction to an extent of East-West 100 feet and North-South 50 feet. On coming to know of the same, the plaintiffs lodged a complaint with Checkanurani police on



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26.11.2024. As civil proceedings are pending on the date of the alleged encroachment, the plaintiffs moved an application in I.A.No.1 of 2025, seeking the relief of declaration that the suit property absolutely belongs to the plaintiffs and calling upon the defendants to vacate and hand over the possession of the same.

6.This application was opposed by the defendants pleading that, even before the presentation of the plaint, they have been in possession and enjoyment of the property. The defendants further urged that the plaintiffs have no right over the same and the defendants alone have the right, title and interest over the suit schedule mentioned property. It was also pleaded that the construction had been completed in the year 2021 and hence, filing an application in April 2025 is hopelessly barred by limitation. The learned Subordinate Judge allowed the application. Hence the present revision.

7.Mr.Ramakrishnan submitted a two-fold opposition to the said order. Firstly, the amendment application itself was barred by limitation, as the construction has been completed in 2021 itself. Secondly, he submitted that the evidence had commenced in the suit



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in January 2025 but the amendment application itself came to be filed only in April 2025. Hence, he pleads that proviso to Order VI Rule 17 of the Code will operate.

8.I have considered the submissions of Mr.Ramakrishnan. I have gone through the records.

9.Insofar as the plea of limitation is concerned, it is not a matter which can be gone into by the Court in detail at the time of considering an amendment application. The specific case of the plaintiffs is that the encroachment that was made by the defendants over the aforesaid extent of the suit property was in December 2024. He further states that, soon after the encroachment was made, he rushed to the police at Checkanurani and lodged a complaint on 26.12.2024. The bar under proviso to Order VI Rule 17 of the Code will operate, when the cause of action was available to the plaintiffs on the date of presentation of the plaint and still they did not, with due diligence, seek the relief.

10.On the contrary, the said proviso cannot be put against the plaintiffs in the present case, since it is the allegation that the



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encroachment itself was made only during the pendency of the suit in December, 2024. A party is entitled to seek for an amendment, when he alleges that certain developments have taken place pending the litigation. Here, the application was filed in April 2025, hardly four months after the date of the alleged encroachment. Therefore, it cannot be held as hit by the proviso to Order VI Rule 17 of the Code as one barred by limitation.

11.Insofar as the plea that the defendants had made the construction in 2021 and the amendment is only a make believe story, it is open to the defendants to raise all such pleas, including the plea on limitation and that the construction had been made earlier, even before the presentation of the plaint, in the additional written statement.

12.With the aforesaid observations, the Civil Revision petition stands **dismissed**. Consequently, connected Miscellaneous Petition is closed.

Index :Yes / No
Internet :Yes / No
NCC :Yes / No
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The Subordinate Judge, Usilampatti.



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V. LAKSHMINARAYANAN, J.

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