



CRP(MD). No.3752 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 17.02.2026

CORAM

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

**CRP(MD). No.3752 of 2025
and CMP(MD).No.19752 of 2025**

1.Maharajan
2.Thangam
3.Bakiyalakshmi
4.Nanthakumar
5.Mukesh Kumar

... Petitioners

Vs.

1.Lazar Ignatius Raja
2.Jayaraj
3.Lawrence Jagannathan

... Respondents

PRAYER :-Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 29.08.2026 passed in I.A.No.3 of 2024 in O.S.No.81 of 2020 on the file of the learned District Munsif, Nilakottai.

For Petitioners : Mr.D.Nallathambi for
Mr.T.Sakthi Kumaran

For Respondents : Mr.K.Chengizkhan



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ORDER

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This Civil Revision Petition has been filed challenging the fair and decretal order dated 29.08.2026 passed in I.A.No.3 of 2024 in O.S.No.81 of 2020 on the file of the learned District Munsif, Nilakottai.

2.Heard the learned counsel for the petitioners as well as the learned counsel for the respondents.

3.According to the revision petitioner, he has been occupying the suit schedule property in an uninterrupted possession for the past 33 years and filed a suit for bare injunction. Thereafter, an amendment application was filed seeking alteration of the prayer from 'bare injunction' to 'declaration of title', based on adverse possession. The trial Court dismissed the same, against which this Civil Revision Petition has been filed.

4.The learned counsel appearing for the petitioner relied upon the judgment of this Court passed in the case of M. Mohan v. G. Janarthanan, reported in 2025 (6) CTC 29, wherein it has been held as



follows:

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“7. The suit is one for bare injunction and in the written statement there is a categorical denial of the title of the plaintiff. No doubt, the written statement was filed in January 2019 and there has been considerable delay in seeking amendment to include the relief of declaration of title. The Hon’ble Supreme Court in Ragu Thilak D. John’s case (referred herein above) held that even if there was change in the nature of the suit originally filed, the dominant purpose under Order VI Rule 17 CPC being only to minimize litigation, even if such amendment would be barred by the law of limitation, the same should be considered liberally.

8. In Pankaja's case (referred herein supra), the Hon’ble Supreme Court held that if the amendment subserves the ultimate cause of justice and avoids further litigation, then the amendment should be allowed, even though there has been delay. The Patna High Court in Gul Hasan Miyan's case (referred herein supra), following the ratio laid down by the Hon’ble Supreme Court in Life Insurance Corporation of India Vs. Sanjeev Builders, reported in (2022) SCC Online SC 1128, held that



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though permitting the amendment at the stage of evidence would cause further delay, considering that the plaintiff would be the sufferer having come to the Court, held that no prejudice would be caused to the defendant if the amendment is ordered, finding that the contesting respondent would have ample opportunities to rebut or controvert the plaint of the plaintiff, which is sought to be brought through amendment, by filing an additional written statement.

9.The ratio laid down in these cases, would squarely apply to the facts of the present case as well. The only ground on which, the Trial Court refused the amendment is that there has been inordinate delay considering the fact that the written statement was filed even as early as in January 2019. However, as held by the Hon'ble Supreme Court in the above referred cases and also followed by the Patna High Court, even if the original character of the suit gets altered, from the relief of permanent injunction to the relief of declaration of title, when the parties are at issue with regard to the very same subject property, by permitting amendment, it would minimize litigation as well, the amendment would certainly subserve the cause of justice. The mere fact that



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there has been a delay should not be put against the plaintiff. In fact, the defendant can always be compensated for the prejudice caused, if any, on account of delay, leave alone the opportunity to meet the amended portions of the plaint by filing an additional written statement.”

5. Wherein, this Court has held that amendment can be permitted even at a belated stage, if such amendment is necessary to determine the real controversy and serve the ends of justice.

6. Per contra, the learned counsel for the respondent submitted that even in the pleadings in the plaint it had not been stated anything with regard to uninterrupted possession. It is his claim that the revision petitioner was permitted to stay in the premises on condition to pay the taxes to the Panchayat.

7. Mr. D. Nallathambi, learned counsel for the petitioner, contended that no person would allow his property to be occupied by a third person on the condition to take care of the property by payment of all tax receipts.



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8.The argument advanced by the learned counsel for the respondent that the rent was fixed at 75% as it is a row house, which has to be determined only during the trial.

9.The learned counsel for the respondent relied upon the judgment of the Hon'ble Supreme Court of India holding that an amendment application cannot be allowed if it alters the nature of the suit, in the case of A.K. Gupta & Sons Ltd. v. Damodar Valley Corporation, reported in CDJ 1965 SC 40. The pleadings in the plaint would show that the plaintiff is holding the property of the respondent herein, whereas the respondent claims that he has permitted the petitioner to occupy the property on certain conditions.

10.This controversy could be deliberated only during the trial and therefore the order passed by the trial Court is liable to be set aside and the amendment application filed by the revision petitioner is liable to be allowed. The trial Court shall decide the issue relating to the rival claims at the time of trial.



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11. Accordingly, this Civil Revision Petition is allowed. No costs.

Consequently, the connected miscellaneous petition is closed. The impugned order passed by the trial Court is set aside and the amendment application filed by the revision petitioner is allowed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No

17.02.2026

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To

1. The District Munsif, Nilakottai.

2. The Section Officer,
E.R. Section/V.R. Section,
Madurai Bench of Madras High Court, Madurai.



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N.SENTHILKUMAR, J.

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