

IN THE COURT OF THE DISTRICT MUNSIF, SULUR

Present : **Tmt.N.Renuga.**, B.A., B.L.,

District Munsif, Sulur

Tuesday the 22nd day of April 2025

I.A.No.9/2025

in

O.S.No.67/2023

1. M/s.R.S.Sales Corporation

through its partner Smt.Savithri Devi Kedia

2. Smt.Savithri Devi Kedia, Partner

3. Smt.Seema Kedia, Partner

4. Smt.Sangita Kedia, Partner

The Plaintiffs 1 to 4 represented through

Their power agent Mr.Dhanraj Kedia

...Petitioners/ Plaintiffs

/ Vs /

1. Mrs.Kokila

2. Mr.N.Vijayakumar

3. Mrs.Sasikala Devi

4. Mrs.Swathi

5. Mr.D.Praveenkumar

6. Mrs.K.Natarajan @ Palaniappan

...Respondents / Defendants

This petition is coming on 17.04.2025 for final hearing before me in the presence of Mr.M.Saravanan, Advocate for the Petitioners and of Ms.K.Kirthana, Advocate for the 6th Respondent and upon perusing the records and having stood over for consideration till this day this Court delivered the following :

ORDER

This petition filed Under Order 6 rule 17 and section 151 of CPC to amend the application as detailed in the accompanying application.

1. The brief averments of the affidavit filed by the Petitioners as follows:

1.1. The main suit is filed by the petitioners against respondents for permanent injunction. The petitioners have made averments in the plaint with prayers of permanent injunction and by oversight the petitioners/ plaintiffs didn't make averments as to declaration under section 31 of the specific relief act to declare the settlement deed vide doc.No.6160/2023, dated 10.05.2023 executed by the 6th respondent in favour of the 1st to 5th respondents as null and void and nonest. The petitioners/ plaintiffs state that thus they constrained to come forward with this application seeking relief of amendment accordingly. The petitioners/plaintiffs ready to pay the sufficient court fee in this regard. Hence, it is necessary to amendments towards declaration. Hence, this petition.

2. The brief averments of Counter statement filed by the 6th Respondent as follows:

2.1. The petition is false, frivolous not maintainable either in law or on facts of the case. This 6th respondent have already stated above the settlement deed in his written statement which executed before filing of this main suit. After knowing the said fact by suppressing the same the plaintiffs are filed the above suit and now have filed the present application to amend the main prayer for declaration of the settlement deed dated 10.05.2023 as null and void. Already written statement in para 3, 9, 19 to 22, 28 to 30 this defendant have made defence about the oral agreement of this respondent/ defendant with Kumar.

2.2. As per the said oral agreement alone they have executed settlement deed for one acres in favour of this 6th defendant to compensate the encroached area. This petition filed belatedly after the Advocate Commissioner visited the property this present petition filed. The plaintiffs has very knows about the oral agreement of the 6th defendant and Kumar and by suppressing the said facts have filed this present petition to amend the prayer. Hence, this petition ought to have dismissed.

3. Point for consideration:-

Whether the petition under Order 6 Rule 17 and section 151 of CPC to amend the plaint is to be allowed?

4. Points:-

4.1. Heard both side, perused the records. The main suit is filed by the petitioners/ plaintiffs for the relief of permanent injunction in the year of 2023 June. Now the present petition filed by the plaintiffs to amend the prayer to add the prayer for declaration to declare the settlement deed dated 10.05.2023 as null and void. The proposed amendment is filed within three years from the date of document i.e., 10.05.2023. The defence taken by the 6th respondent in their counter are the matters to be decided on merits after adducing both side oral and documentary evidence. This being a pre trial amendment it to be construed liberally as per Order 6 Rule 17 of CPC. In the interest of justice this court inclined to allow this petition.

In the result, this petition is allowed. No cost.

Dictated to the Steno-typist and directly typed by her in computer, corrected and pronounced by me in open court this the 22nd day of April 2025.

Sd/N.Renuga
District Munsif,
Sulur.

List of witnesses and documents on Petitioners side:-

Nil

List of witnesses and documents on Respondents side:-

Nil

Sd/N.Renuga
District Munsif,
Sulur.

Draft/ Fair Order
I.A.No.9/2025 in
O.S.No. 67/2023
Dated : 22.04.2025
DMC, Sular