

IN THE COURT OF THE DISTRICT MUNSIF, SULUR

Present : Tmt.M.Santhosham., B.Sc., B.L.,

District Munsif, Sulur

Thiruvalluvar year 2056 Visvvasu year, 11th day of Panguni

Wednesday the 25th day of March 2026

I.A.No.7/2025

in

I.A.No.5/2025

in

O.S.No.102/2022

1. C. Chinnasamy
2. C. Subramaniam
3. C. Arumugam

... Petitioners/Plaintiffs

/VS/

M/s. Charles Dwellers Pvt. Ltd.,

...Respondent/Defendant

This petition is coming on this day for final hearing before me in the presence of Mr.L.Rajendran, Advocate for the Petitioners and Mr.G.Madhana Gopal, Advocate for the Respondent and upon perusing the records, and this court made the following:

ORDER

This petition filed by the petitioners under order 6 rule 17 of CPC to carryout the following amendments in the petition in I.A.No.5/2025.

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

1.1. The petitioners have filed the main suit for the relief of Permanent Injunction and other reliefs. The affidavit averments in I.A.No.5/2025 also be read as part and parcel of this affidavit. While preparing the proof affidavit of PW.2 petitioners came to know that the extent of the property mentioned in the suit plaint is less than what petitioners really owned. Immediately petitioners filed an petition

under Order 6 Rule 17 of CPC rectify the mistake and omissions.

1.2. The above said petition taken on filed in I.A.No.5/2025 in O.S.No.102/20122 by this court. The respondent filed counter and enquiry heard both side and the petition posted for orders. This court was to reopen the petition for want of clarification about the extent of property and the extent of the property already sold by petitioners. Petitioners prepared a memo regarding full particulars of property and the same was filed on 06.11.2024. At that time of preparing memo same typographical mistakes found in I.A.No.5/2025 petition schedule of property. The calculation of the suit property extent of 1 ½ cent petitioners wrongly calculated it as 7 ½. The above said mistakes neither wilful nor wanton.

1.3. The extent of the property is mentioned in the order 6 rule 17 petition is corrected petitioners will be put into great loss. Hence, it is just and necessary to amend the extent of property mentioned in the I.A.No.5/2025. Unless the petition is allowed, petitioners will be put into much hardship and huge loss. If the petition is allowed no prejudice will be caused to the respondent/defendant. Hence, the petition is to be allowed.

2. The brief averments of Counter statement filed by the Respondent / Defendant as follows:

2.1. The petition is false, frivolous, vexatious and not maintainable both under law and on the facts of the case. The captioned IA.No.7/2022 filed by the petitioners in I.A.No.5/2025 in the captioned suit, seeking amendment to amendment, that too after having elaborated enquiry in I.A.No.1/2022 and the same is dismissed and thereafter in the trial PW.1 also examined and thereafter coming with the application I.A.No.5/2025 for amendment wherein also this court heard the submissions and the same is posted for orders. While so, the present I.A.No.7/2025 is filed for amendment and is not permissible under the law. Since after taking the

defense the petitioners also admitted the same and now seeking amendment for filling up the lacuna or putting up a new justice. Untenable and is against the principles of natural justice. Therefore the present petition is absolutely not maintainable at this juncture since in the captioned proceedings the pleadings are completed and the case is posted for trial and on the side of the Plaintiffs and 3rd petitioner is examined as PW 1 and the Respondent / Defendant side also cross examined and in the cross examination the defense is unequivocally established by the Respondent / Defendant and also established that the petitioners have failed in establishing their case before this court. Further the Respondent / Defendant had also filed an application to reject the plaint vide IA.No.2/2022 and the said application's enquiry was heard along with IA.No.1/2022 and decided by this court on 21.11.2022 itself. Thereby at this juncture the petitioners are filing the application to amend the plaint is nothing but putting up a new case and thereby the present petition is untenable and is not maintainable.

2.2. Further the petitioners have not come with clean hands and further the present suit is posted for the Petitioners/Plaintiffs side further evidence. Therefore, at this stage of the present application in the captioned suit under order VI Rule 17 of the CPC is clearly a bar that too after the commencement of the trial the present application is not maintainable at law and the procedure. The suit itself is not maintainable for non-impleading of the necessary parties to the suit and therefore the present application is untenable on facts and at law. The averments contained in the written statement and the petitions filed by the respondent including the cross examination of the respondent.

2.3. Respondent purchased the properties an extent of 0.36 ½ acres in S.F.No.277/1B1 (Part); an extent of 0.09 ½ acres in S.F.No.277/2B (Part); an extent of 0.30 acres in S.F.No.277/2K (Part) and the pathway rights in S.F.No.277/2C and 277/2L vide sale deed dated 29.01.2021. The Respondent's Vendor owned the said lands vide sale deed bearing document No.1899/1986 dated 19.11.1986. The

petitioners filed this suit before this court, seeking the relief to grant a Permanent Injunction. Therefore the Respondent is not having any property as alleged in the plaint. Further in the suit schedule of property there is No.23 feet east west Road and where is the question of disturbing and interfering with the Respondent's peaceful possession and either by claiming that the northern side of the 23 feet east west road.

2.4. At this juncture the present petition is not maintainable and now merely alleging that now only came to know and irreparable loss to them are not the ingredients to invoke this provision. Therefore under these circumstances the present petition is nothing but to harass the respondent and drag on the proceeding and it would allow the petitioners to set up a new case which is not permissible our land of law. Therefore the respondent is vehemently opposing the claim of the petitioners and denies vehemently the allegations of the petitioners s false and misleading and the petitioners is attempting to set up new case and the petitioners are coming with this application with an ulterior motive and is evident from their allegations itself.

2.5. Therefore relief sought in the captioned petition is absolutely false and untenable on facts and at law as per provisions. The petitioners is making a false claim. The petitioners is not entitled the reliefs sought by them. The petition is to set up a new case and to drag on the proceedings. The petitioners have not filed this petition with valid grounds thereby this petition is baseless and liable to be dismissed.

3. No Witnesses were examined on either side, and no documents were marked as exhibits.

4. Points for Consideration:-

Whether the petition under order 6 rule 17 of CPC to permit the plaintiff's to carryout out the amendments in the suit plaint is to be allowed?

5. Points :-

5.1. The Petition affidavit, counter and the enquiry of both parties were carefully considered. Heard the counsels for both the parties. The suit documents were carefully examined. The original suit is filed for seeking relief of Permanent injunction. Now the suit is pending for further plaintiffs side evidence.

5.2. The petitioners stated that, this court was to reopen the petition for want of clarification about the extent of property and the extent of the property already sold by petitioners. Petitioners prepared a memo regarding full particulars of property and the same was filed on 06.11.2024. At that time of preparing memo same typographical mistakes found in I.A.No.5/2025 petition schedule of property. The calculation of the suit property extent of 1 ½ cent petitioners wrongly calculated it as 7 ½. The above said mistakes neither wilful nor wanton. The extent of the property is mentioned in the order 6 rule 17 petition is corrected petitioners will be put into great loss.

5.3. Respondent objected that, respondent purchased the properties an extent of 0.36 ½ acres in S.F.No.277/1B1 (Part); an extent of 0.09 ½ acres in S.F.No.277/2B (Part); an extent of 0.30 acres in S.F.No.277/2K (Part) and the pathway rights in S.F.No.277/2C and 277/2L vide sale deed dated 29.01.2021 bearing document No.1260/2021 before the Sub Registrar, Sulur, Coimbatore. The suit schedule of property there is No.23 feet east west Road and where is the question of disturbing and interfering with the Respondent's peaceful possession and either by claiming that the northern side of the 23 feet east west road. The petitioner has been claiming ownership of the suit property where is dispute as alleged in the allegation made therein where is the question of encroachment of the suit property. There is no document to show that the respondent is the neighbour to the suit property.

5.4. In this context, the petitioners has filed an application in I.A.No.5/2025 to amend the plaint. This present petition is filed to amend the earlier application. It is stated that, at the time of preparing memo same typographical mistakes found in I.A.No.5/2025 petition schedule of property. In this situation, the petition filed as I.A.No.7/2025 seeking an amendment is allowed in the interest of justice. Allowing the amendment in the said petition will not cause any prejudice to the Respondent/Defendant.

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 25th day of March 2026.

Sd/M.Santhosham
District Munsif,
Sulur.

List of witnesses and documents on petitioners side:- - Nil

List of witnesses and documents on Respondent side:- - Nil

Sd/M.Santhosham
District Munsif,
Sulur.

Draft/ Fair Order
 I.A.No.7/2025 in
 I.A.No.5/2025 in
 O.S.No.102/2022
 Dated:25.03.2026
 DMC, Sulur