

IN THE COURT OF THE DISTRICT MUNSIF, SULUR

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

District Munsif, Sulur

Thiruvalluvar year 2056 Visvvasu year, 2nd day of Month of Aavani

Monday the 18th day of August 2025

I.A.No.6/2025

in

O.S.No. 120/2023

1. S. Velusamy

2. Rajammal

... Petitioners/Plaintiffs

/VS/

1. Palanisamy

2. Ayyamuthu (Died)

3. Santhameenal

4. Kandasamy

5. Karuppusamy

6. Deivathal

7. Santhamani (Died)

8. Ramasamy

9. Mahenthiran

10. Chitrakala

...Respondents/Defendants

This petition is coming on this day for final hearing before me in the presence of Mr. V. Raveendran, Advocate for the Petitioners and Mr.Senthilkumar, Advocate for 1st Respondent and Mr. S. Mahendran, Advocate for the 4th Respondent and Mr.S.Sathiskumar, Advocate for 5th and 6th Respondents and Mr. K.A. Palanisamy, Advocate for the 8th to 10th Respondents and the 3rd Respondent exparte in main suit and the 2nd and 7th Respondents reported died in main suit and upon

perusing the records, and this court made the following:

ORDER

This petition filed by the petitioners under order 6 rule 17 and Section 151 of CPC to amend the plaint.

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

1.1. The Petitioner/Plaintiffs have filed the above suit for Declaration and consequential injunction against the respondents. The Petitioners/Plaintiffs are agriculturalist, the plaint and documents as part and parcel of this affidavit. The above suit was posted for trial. The specific cart track runs through in Petitioners exclusive properties in Para No.11 of the plaint. But unfortunately the same was not described in the schedule of property. The suit is for the relief of declaration. It is very essential to disclose the cart track in the schedule of property. Otherwise it will lead great confuses in execution of the decree in future. Hence, the petition is to be allowed.

2. The brief averments of Counter statement filed by the 4th Respondent as follows:

2.1. The petition is false, frivolous, vexatious and not maintainable in law and on facts. Except the allegations which are specifically admitted herein, this respondent denies the rest of the allegations in the affidavit and the petitioner is put to strict proof of the same. The petitioner has now filed this petition to amend the original case. Common pathway enjoyed by both the plaintiffs and the defendants. The plaintiffs cannot seek declaratory relief claiming the pathway as exclusively belonging to them. Including the said property, the original suit would alter the nature of the case. Hence, the petition is dismissed with costs.

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 and Section 151 of CPC to amend the 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 has been filed seeking for Declaration and Permanent injunction. In the said suit, the suit is posted for trial in list. The Petitioners/Plaintiffs has filed this petition to amend the schedule of property.

5.2. The original suit has been filed seeking Declaration and Permanent Injunction. The suit is pending for trial. In this situation, the petitioners has stated that the cart track runs through their property and was mentioned in paragraph 11 of the plaint, but it was mistakenly not included in the property description, and hence seeks amendment. The respondent has objected, stating that the cart track is common to both the plaintiffs and the defendants. Whether the mentioned property belongs to the plaintiffs or the defendants will be determined during the trial. As per Order 6 Rule 17 of CPC, the pre trial amendment to be construed as liberally and the plaint can be allowed to amend. Hence, in the interest of justice this petition is allowed.

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 18th day of August 2025

Sd/M.Santhosham

District Munsif,

Sulur.

List of witnesses and documents on petitioner side:-

Nil

List of witnesses and documents on Respondents side:-

Nil

Sd/M.Santhosham
District Munsif,
Sulur.

Draft/ Fair Order
I.A.No.6/2025 in
O.S.No.120/2023
Dated:18.08.2025
DMC, Sulur