

**IN THE COURT OF THE DISTRICT MUNSIF-CUM-JUDICIAL  
MAGISTRATE, CHEYYUR.**

**PRESENT:** Tmt. V. Devapriya, B.Sc.,M.L.,  
District Munsif-cum-Judicial Magistrate,  
Cheyyur (FAC)

Thursday, the 30<sup>rd</sup> day of January 2025

I.A.No. 404/2021  
in  
IA.307/2020  
in  
O.S. No.196/2020

1. Kasiyammal
2. Lakshmanan
3. Elumalai
4. Subbiyyan
5. Subathirai
6. Gayathri

...Petitioners/Defendants

-vs-

1. Jalammal
2. Revathy
3. Dhanam
4. Kanniyappan
5. Amuthavalli
6. Dhandapani

..Respondents/Plaintiffs

This petition coming up before me on 16.12.2024 for final hearing in the presence of Thiruvallargal. K.Ayyasamy, S.Senthil Kumaran and V.Mohanraj, counsels for the Petitioners/Defendants and Thiru.G.S.Suresh Babu, counsel for the Respondents/Plaintiffs and after hearing the arguments on both sides and upon perusing the materials placed on record, and having stood over for consideration till this day, this court delivers the following,

**ORDER**

This petition has been filed by the Petitioners/Defendants under Order 6 Rule 17 of Code of Civil Procedure, to amend the petition in IA.No.307/2020.

**2.The averments stated in the petitions in brief:**

The Respondents/Plaintiffs had filed the above suit for permanent injunction against the Petitioners/Defendants. One Vengaisamy Naicker who is the husband of 1<sup>st</sup> Respondent/1<sup>st</sup> Plaintiff and father of other Respondents/Plaintiffs have purchased 0.07-1/4 cents out of Ac.0.21 cents in S.No.155/14 on 23.08.1978. The petition mentioned suit property is situated in the extreme western side in Ac.0.21 cents. As per their above said sale deed and as per the plaint the Respondent/Plaintiffs are claiming Ac.0.07-1/4 cents out of Ac.0.21 cents. The Respondents/Plaintiffs have no any right over the remaining extent of i.e. Ac 0.13-3/4 cents in S.No.155/14. The above said property i.e. Ac 0.13-1/4 cents belong to Petitioners/Defendants and they are in possession and enjoyment of the same. The Respondents/Plaintiffs have no any right over them above said Ac 0.13-3/4 cents in S.No.155/14 which is situated on the eastern side of petition mentioned property. In the plaint eastern boundary to the petition mentioned suit property is given a Chinniyya Gounder. This itself go to show that the Respondents/Plaintiffs have no any right on the eastern side of their petition mentioned suit property in suit S.No.155/14.

3. The Ac 0.05 cents out of Ac 0.21 cents in S.No.155/14 was purchased by Manicka Gounder and his brother Raghava Gounder on 22.01.1934. Manicka

Gounder is the father in law of 1<sup>st</sup> Defendant and grand father of other Defendants. Raghava Gounder who is the brother of Manicka Gounder died without any issues and legal heirs and hence Manicka Gounder became the absolute owner of the above said Ac 0.05 cents. Chinniyya Gounder who is the husband of 1<sup>st</sup> Petitioner/1<sup>st</sup> Defendant and father of other Defendants have purchased Ac 0.02-1/2 cents out of Ac 0.21 cents from Ganesa Mudaliyar and others on 07.05.1964 in S.No.155/14, purchased Ac 0.02-1/4 cents in S.No.155/14 on 24.02.1968 from Perumal Gounder and purchased Ac 0.02-1/2 cents in S.No.155/14 on 17.12.1968 from Perumal Gounder. Totally Chinniyya Gounder have purchased Ac 0.07-1/2 cents out of Ac 0.21 cents as above mentioned.

4. Chinniyya Gounder's father Manicka Gounder had acquired Ac 0.05 cents in S.No.155/14 in the above mentioned sale deed dated 22.01.1934. After death of Manicka Gounder, Chinniyya Gounder as his only legal heirs became the absolute owner of above said Ac 0.05 cents and Chinniyya Gounder totally became the absolute owner of Ac 0.12-1/2 cents in S.No.155/14 and he was in possession and enjoyment of the same. Therefore they are the absolute owners of the property situated on the eastern side of the petition mentioned suit property in S.No.155/14 which the Respondents/Plaintiffs have no any right or interest.

5. Under Natham Survey Scheme New Sub-division was given to the above said Ac.0.21 cents in S.No.155/14. The New Natham Survey numbers are 155/1 and 155/2. Natham patta is granted in the name of Chinniyya Gounder in Patta No.77. In

New Gramatham S.No.155/1 to a extent of 0373 Sq.Mts and in Gramanatham S.No.155/2 to a extent of 0477 Sq.Mts. Hence the total extent of Ac 0.21 cents was sub-divided as Gramanatham S.No.155/1 and S.No.155/2 and the patta stands in the name of Chinniyya Gounder who is the father of Defendants 3 to 6 and husband of 1<sup>st</sup> Defendant. The plaint mentioned property is situated in Gramanatham New S.No.155/1. The Respondents/Plaintiffs are entitle to Ac 0.07-1/4 cents in Gramanatham S.No.155/1. The Respondents/Plaintiffs are entitle to Ac 0.07-1/4 cents in Gramanatham S.No.155/1 on the western side. The Respondents/Plaintiffs has no any right over the property situated on the eastern side of the petition mentioned property. They alone were the absolute owners of the property situate on the eastern side of petition mentioned suit property i.e. Gramanatham S.No.155/1 and 155/2.

6. There is boundary dispute between Respondents/Plaintiffs and Petitioners/Defendants. The Respondents/Plaintiffs are claiming unlawful right beyond their petition mentioned suit property on the eastern side i.e. Petitioners/Defendants property. Hence they had taken steps to measure the petition mentioned suit property and their other property. The petition mentioned suit property and Petitioners/Defendants property were also measured by Surveyor and Surveyor fixed the boundary to the petition mentioned suit property on the eastern side. But the Respondents/Plaintiffs are not accepting the same and claiming

unlawful right over Petitioners/Defendants property which is situate on the eastern side of suit property.

7. The Respondents/Plaintiffs have no any right over Petitioners/Defendants property situated on the eastern side of suit property. Hence they are filed an application to appointment of Advocate Commissioner to note down the physical features of the petition mentioned suit property and measure the same with the help of Taluk Head Surveyor, Cheyyur and the same was numbered in I.A.N.308/2020. This court had also appointed Advocate Mr.Sakthivel, as Advocate Commissioner to note down physical features and measure the same along with Surveyor, Cheyyur and Advocate Commissioner's warrant also issued to Advocate Commissioner.

8. The property mentioned in earlier Advocate Commission petition is mentioned as per the plaint filed by the plaintiff. In the said old schedule is given as S.No.155/14. Since, there is no Survey number as S.No.155/14 and same was subdivided as S.No.155/1 and S.No.155/2 at the time of inspecting the suit property the Surveyor refused to measure the suit property on the basis of old Survey Number i.e. S.No.155/14. There after the amendment petition filed in I.A.No.82/2021 in the above suit to amend the plaint schedule. Even in the Amendment petition the Respondents/Plaintiffs claiming of their extent wrongly as 373 Sq.Mts instead of 0.07-1/4 cents. The Respondents/Plaintiffs is claiming title only Ac 0.07 – ¼ cents in S.No.155/1 to an extent of 0.07-1/4 cents. In Sub-division S.No.155/1 the total

extent is 0373 Sq.Mts (Ac 0.09-1/4 cents) which is granted in the name of Chinniyya Gounder who is the husband of 1<sup>st</sup> Defendant.

9. The Respondents/Plaintiffs are owning Ac 0.07-1/4 cents on the western side out of 0373 Sq.Mts. The Respondents/Plaintiffs has no any right over eastern 0.02 cents out of 0373 Sq.Mts. The Respondents/Plaintiffs on his amendment petition had given wrong extent and also wrong boundaries. They have also filed their counter stating the above said facts in the said counter. But the Respondents/Plaintiffs to amend the amendment petition as per has actual claims and possession. The Amendment petition was allowed and amendment was carried and the present plaint schedule of property and also boundaries are not correct per the plaint pleadings. The Respondents/Plaintiffs is owning only 0.07-1/4 cents out of 0373 Sq.Mts bounded on the east by Chinniyya Gounder's house site (Defendants house site) in S.No.155/1. On the north by Nalluthambi's land, South by Chinniyya Gounder (this Defendants) land, and on the West by Road, Hence the extent and boundaries given in the amendment plaint is also not correct. Hence this petition.

**10.The averments stated in the Counter filed by the 4<sup>th</sup> Respondents/Plaintiffs and adopted by Others Respondents/Plaintiffs, in brief:**

This petition is not maintainable under law and on facts. All the allegations and averments contained in the petition are false. Originally the suit property and the Petitioners/Defendants' property were classified as dry categories and that subsequently it has been classified as Gramanatham. The suit property classified as

in Gramanatham survey No.155/1 to an extent of 373 Sq.Mts which stands in the name of Chinnaiah Gounder under patta No.77 and the adjacent property of Petitioners/Defendants property classified as Gramanatham S.No.155/2 to an extent of 477 Sq.Mts which also stands in the name of Chinnaiah Gounder under Patta No.77.

**11.** The Petitioners/Defendants already filed a petition before this court in I.A.No.307/2020 for appointment of Advocate Commissioner to measure the suit property which was allowed by this court and one advocate Mr.Sakthivel was appointed as advocate commissioner and he had also visited the suit property and intend to measure the suit property on 13.02.2021. But at the time of measurement that the head surveyor perused the revenue records that the Petitioners/Defendants has not stated that Gramanatham survey number which is classified as dry category to Gramanatham category and further the perusal of measurement which is not correlated with the revenue records. Hence the advocate commissioner has not executed the warrant and he was not able to measure the suit property on that day. Thereafter that the Respondents/Plaintiffs have filed an application to amend the plaint schedule as per revenue records for the new Gramanatham survey number and the same was allowed by this court and as per amendment application, the Respondents/Plaintiffs have amend the schedule of property as per revenue records with correct survey number, correct measurements with correct specific boundaries.

**12.** The Petitioners/Defendants have filed this present amendment application to amend the schedule as Gramanatham survey No.155/1 to an extent of 0.07-1/4 cents was wrongly mentioned instead of 373 Sq.Mts and the boundaries were also wrongly mentioned as “North by Nalluthambi’s land, South by Chinnaiyya Gounder (this Defendants) land, East by Chinnaiyya Gounder (Defendants) land in S.No.155/1 and on the West by Road” instead of “East by Gramanatham S.No.155/2 (owned by Defendants) West by Road, North by Battai, South by S.No.155/2 (owned by Defendants). Therefore the present amendment petition filed by the Petitioners/Defendants to amend the schedule of property is not correct and it is not correlated with the revenue records and if the amendment petition is allowed. the advocate commissioner will not be able to measure the suit property as per revenue records. Hence the amendment petition may be dismissed with lumini. Further the Petitioners/Defendants have no locus standi to amend the schedule of property as mentioned in the present amendment application as already the suit schedule was amended. Hence this petition is liable to be dismissed with costs.

**13.** The point for determination is whether the petition is to be allowed or not?

**14.** On the side of the Petitioners/Plaintiffs Exhibits P-1 and P-2 were marked and on the side of the Respondents/Defendants, no Exhibits were marked and no witnesses were examined on both sides.

**15.** Heard both sides and perused the records.

**16.** The Petitioner had filed this petition to amend the petition in the above IA. The Respondents resisted the petition stating that the proposed amendment is not correct. The Petitioner had stated that the above I.A.No.307 of 2020 was filed to appoint advocate commissioner to measure the petition mentioned property and the same was allowed. However, at the time of measurement, it was found that the S.No.155/14 was subdivided as S.No.155/1 and 155/2 and therefore it is necessary to amend the same.

**17.** Perusal of records show that in the schedule of property in the above petition, the Petitioner had mentioned the S.No. 155/14 to an extent of Ac 0.07 1/4 cents out of Ac 0.21 cents. According to Petitioner, the above survey number 155/14 was subdivided as S.No.155/1 and 155/2. In the proposed amendment, the Petitioner had mentioned the additional schedule of property as S.No.155/1 to an extent of Ac 0.07 1/4 cents. But, in the above petition, in the schedule, it is mentioned as east of S.No.155/1 and in the present proposed amendment, in the additional schedule, it is mentioned that S.No.1551/1 is bounded on the east by Chinnaya gounder land in S.No.155/1. Thus, the boundaries of the schedule of property mentioned in the petition and the proposed amendment are contrary to each other.

**18.** Further, the Petitioner had stated that S.No. 155/14 was subdivided as S.No.155/1 and 155/2. But, in the proposed amendment, the Petitioner had neither deleted the old survey numbers nor added the new survey number. But entirely changed the property and had stated as additional property. The proposed amendment is not in accordance

with the reason stated by the Petitioner. Hence, for the foregoing reasons, this court is not inclined to allow this petition.

**19. In the result, this petition is dismissed. No costs.**

Dictated to the typist, typed by her and corrected and pronounced by me in open court on this the 30<sup>th</sup> day of January 2025.

District Munsif-cum-Judicial Magistrate,  
Cheyyur. (FAC)

**Petitioners side witnesses :-**

**Nil**

**Petitioners side documents:**

**Ex.P1     Patta No.77 dated 15.09.2022**

**Ex.P2     Patta No.77 dated 21.02.2022**

**Respondents side witnesses and documents:**

**Nil**

District Munsif-cum-Judicial Magistrate  
Cheyyur. (FAC)