

**IN THE COURT OF THE II ADDITIONAL DISTRICT MUNSIF,  
NAGERCOIL.**

**Present : Selvi. V. Sivaranjani, B.A., L.L.B.,**

II Additional District Munsif, Nagercoil

Tuesday, on the 10<sup>th</sup> day of February, 2026.

I.A. No.3 of 2025 in O.S.No.12 of 2025

CNR No.TNKK04-000005-2025

Vadalivilai Paramparai Arulmigu Ilanerathu

Mannarraja Temple rep. by its President

Sivarajan

... Petitioner / Plaintiff

-vs-

Rajagobalan

... Respondent / Defendant

This Petition came up before this Court on 03.02.2026 for a final hearing in the presence of Mr. T. Sivakumar, learned Counsel for the Petitioner / Plaintiff and Mr. A. Raveendran, learned Counsel for the Respondent / defendant and upon hearing both sides, perusing the case records, and having stood over for consideration till this day, this court hereby delivers the following:

**ORDER**

The Petitioner had filed under Order VI Rule 17 and Section 151 of the Code of Civil Procedure, seeking to amendments in the plaint.

2. Gist of Averments in the Petitioner's Petition :

The petitioner is the plaintiff in a suit for permanent injunction relating to the plaint schedule property, which is a temple and its land measuring 1 cent in Re-Survey No. 228/6 (Old Sy. No. 7827) of Vembanoor West Village, with well-defined boundaries. The said property originally belonged to N. Perumal, who orally gifted it to the temple long ago, pursuant to which the temple acquired absolute right, title, and possession. The Vadalivilai Paramparai Arulmigu Ilanerathu Mannarraja Temple was constructed and later reconstructed in plaint "A" schedule property and surrounding properties were subsequently purchased in the temple's name.

3. The plaint 'B' schedule property, measuring 6 feet in width and 70 feet in length, is the only access pathway running east to west to the temple from the road situated on the southern side of the defendant's property. Though the 'B' schedule property originally belongs to the respondent/defendant, it has been continuously used as a pathway both by the respondent to access his house (situated north of the temple) and by the temple, its committee members, devotees, and villagers for worship and festivals. An electricity connection is also drawn through the plain "B" schedule pathway. No alternative access exists. The respondent was also a former committee member and President of the temple.

4. Due to ongoing disputes relating to temple properties, the respondent began obstructing the use of the pathway. Earlier attempts by the respondent to construct a compound wall covering the 'B' schedule pathway were resisted, following which he agreed to install a gate without locking it, allowing continued access to the temple.

5. However, on 12.12.2024 at about 10.00 a.m., the respondent, along with his men, attempted to forcibly lock the gate and block access, which was prevented by the timely intervention of temple representatives. Despite this, the threat of obstruction continues. In his written statement, the respondent has denied the existence of a pathway, making it necessary for the petitioner to seek a declaration of easementary right of pathway. Hence, the petitioner has filed the present amendment petition seeking inclusion of a prayer for declaration of easementary right over the plaint 'B' schedule property. Hence, this petition is to be allowed.

6) **Gist of Averments in the Respondent's Counter:**

The respondent denies all plaint averments except those expressly admitted. According to the respondent, there is no such plaint 'A' or 'B' schedule property as described by the plaintiff, and the alleged pathway is an imaginary and falsely projected one.

7. The respondent asserts that the plaintiff temple is situated only in 1/4 cent of land belonging to the respondent, which was dedicated by him for temple purposes. The 2 rooms were constructed only after such dedication, and there was no oral gift by Perumal as alleged by the plaintiff. The surrounding properties, including 1 cent belonging to Perumal and 4 cents purchased by the respondent under Sale Deed No.1218/2001, remain the absolute property of the respondent, and the plaintiff has no right, title, or possession over them.

8. With regard to the alleged plaint 'B' schedule pathway, the respondent categorically denies that it is the only access to the temple or that the temple or its devotees ever used it. The respondent states that the said pathway on the southern side is exclusively meant for his family and his brothers, based on a deed of agreement executed in the year 2013. A compound wall and gate with lock and key have existed from long back, and possession and control of the pathway have always remained with the respondent and his family members.

9. The respondent further contends that the temple has an alternative access through the western side via Michel's property, which has been continuously used by devotees and varikarars. Hence, the claim of continuous, peaceful, and uninterrupted use of the alleged 'B' schedule pathway by the plaintiff is false and invented solely to usurp the respondent's private property.

10. The allegation that the respondent attempted to lock the gate forcibly on 12.12.2024 is denied as false, since the gate was already under the respondent's exclusive control. As there is no existing pathway for the plaintiff in the alleged 'B' schedule property, the question of declaring any easementary right does not arise. Consequently, the proposed amendment seeking declaration of easement is unnecessary, lacks bona fides, and does not disclose any cause of action.

11. The respondent also submits that another suit in O.S.No.185/2025 between the same parties is already under trial, and permitting the amendment at this stage would alter the nature of the suit and cause serious prejudice to the respondent. Therefore, the amendment application is not maintainable either in law or on facts and is liable to be dismissed with costs.

12. The point for consideration is whether the above petition has to be allowed or not?

13 . Point:

Heard both sides. Records perused. The petitioner is the plaintiff in the suit for Permanent injunction. The petitioner has come up with this petition while the original case has been posted for trial. Upon careful perusal of both sides pleadings, affidavit and counter, this court would like to reiterate the averments made by the respondent in the written statement as follows:

“ The pathway has always been used by the defendant and his family for access to his own house, and any occasional entry by temple visitors was purely permissive and out of goodwill, not as a matter of legal right. The plaintiff cannot convert such temporary permissive usage into a permanent right.”

14. From that, this court could perceive that the respondent / defendant has admitted the existence of the pathway though the respondent claims that pathway belongs exclusively to him and family thereby also disputes the plaintiff's claim of plaint 'B' schedule property being only access to the plaintiff's temple. In such circumstances, whether the plaint 'B' schedule property alleged to be the pathway is the only access to the plaintiff's temple and there exists no alternative pathway constitutes the real controversy between the parties, which can be effectively decided only upon full fledged trial . For the purpose of deciding the above said controversy relating to the alleged pathway, the amendment sought by the petitioner to include a prayer seeking declaration of easementary right of pathway by prescription and necessity over the plaint 'B' schedule property seems to be necessary . In addition to that, the amendment sought is prior to the commencement of trial and neither it alters the nature of the suit nor introduces new or inconsistent cause of action. Therefore, this court is of the considered view that allowing this amendment would also prevent multiplicity of proceedings and there will be no irreparable prejudice would be caused to the respondent. In the light of above facts and

circumstances this court is inclined to allow this petition.

As a result, this petition is allowed. No cost.

Dictated to the steno-typist, typed by her in the Computer directly, printed, corrected and pronounced by me in open court this the 10<sup>th</sup> day of February, 2026.

II Additional District Munsif  
Nagercoil.

List of witness and documents for Petitioners side : Nil

List of witness and documents for Respondents side : Nil

II Additional District Munsif  
Nagercoil.

*II ADM, Nagercoil.  
Draft/Fair Order  
I.A.No.3/2025 in  
O.S.No.12/2025  
Date: 10.02.2026.*