

IN THE PRINCIPAL SUBORDINATE COURT AT KANCHEEPURAM

PRESENT: THIRU. K.S. ARUN SABHAPATHY, M.A., M.L., D.D.T.P.,
Principal Subordinate Judge.

Thursday, the 12th day of March, 2026.

INTERLOCUTORY APPLICATION No. 03 OF 2026

IN

O.S. No. 261 OF 2009

(CNR No. TNKP07 – 000096 – 2009)

J. Santhi Jayapriya,
Represented by her Power of Attorney,
J. Sanjeev Jayaprakash.

.....Petitioner/Plaintiff

Versus

1. P. Krishnamoorthy.
2. V.S. Kumar.
3. N. Balasubramanian.
4. K.N. Radhai.

.....Respondents/Defendants

This petition have come up on 03.03.2026 before me for final hearing in the presence of Mr. V. Narayanan, learned counsel appearing for the Petitioner, Mr. S. Sugapriyan, learned counsel appearing for Third Respondent, Respondents 1, 2 and 4 were set ex parte on 03.03.2026, 03.03.2026 and 28.07.2025 respectively, upon hearing the submissions of the learned counsels for the petitioner and the 3rd respondent, and also on perusal of the records, having stood over for consideration till this day, this Court delivers the following:

ORDER

1. This petition is filed under Order VI Rule 17 of the Code of Civil Procedure seeking permission to carry out amendment in the plaint.

2. CASE OF THE PETITIONER: The petitioner/plaintiff is the absolute owner of the plaint schedule properties. Originally, the suit properties belonged to the first respondent/first defendant. The plaintiff has filed the suit against the first and second respondents seeking the relief of declaration of title and consequential permanent injunction. The suit property was conveyed by W. Stalin in favour of Santhi Jayapriya through a registered sale deed dated 24.06.2009 and she has been put in to its possession and enjoyment of the same. However, suppressing the said document, the first defendant executed a sale deed in favour of the second defendant on 27.07.2009 vide document no.4172 of 2009 on the file of Joint-II Sub Registrar, Kancheepuram.

2.1. Subsequently, the second defendant executed sale deeds in favour of the third and fourth defendants on 15.11.2012 and 01.02.2013 vide document nos.7451 of 2012, 470 of 2013 and 471 of 2013 on the file of Joint-II Sub Registrar, Kancheepuram. Since the said transactions were made during the pendency of the suit, they are hit by the doctrine of *lis pendens*. Hence, in order to amend the plaint to incorporate the relief of declaration that the above said sale deeds are null and void and not binding on the plaintiff, the petitioner has come up with this petition.

3. CASE OF THE THIRD RESPONDENT: The plaintiff has no *locus standi* to maintain the suit, as she has neither right, title nor possession over the suit property.

The third defendant purchased Plot No.2 measuring 1620 sq.ft. in S.No.501/2A (New S.No.501/2A2) at Saravana Avenue Extension, Sevilimedu Village, from the second defendant V.S. Kumar by a registered sale deed dated 15.11.2012 bearing document no.7451 of 2012 on the file of Joint-II Sub Registrar, Kancheepuram and has been in possession and enjoyment of the same. The property was later sub-divided as S.No.501/8 and Patta No.5571 stands in the name of the third defendant.

3.1. The second defendant had purchased the property from the first defendant by a registered sale deed dated 27.07.2009 bearing document no.4172 of 2009. The alleged sale deed dated 24.06.2009 executed in favour of the plaintiff by her husband W. Stalin, acting as power agent, was a sham and nominal document and the same was subsequently cancelled by a registered cancellation deed dated 05.08.2010. The District Registrar, Kancheepuram, by proceedings dated 01.03.2012, held the said transaction to be fraudulent. The suit is not properly valued and proper court fee has not been paid. In view of the plaintiff is not in possession of the suit property, she ought to have sought recovery of possession. The relief claimed is highly belated and barred by limitation. Accordingly, the third defendant prays for dismissal of this application with exemplary costs under Section 35-A CPC.

4. POINT FOR CONSIDERATION: Whether the petitioner is entitled to amend the plaint so as to incorporate the reliefs of declaration declaring the three sale deeds executed *pendente lite* as null and void?

5. No one is examined and no documents were exhibited on either side. Heard the rival submissions of the learned counsels for the petitioner and the 3rd respondent. Perused the records.

6. FINDING: The petitioner is the plaintiff in the main suit filed in the year 2009 seeking declaration of title and permanent injunction. Pending the suit, the first respondent executed a sale deed in favour of the second respondent, who in turn executed sale deeds in favour of the third and fourth respondents. Since the said transactions were effected *pendente lite*, the petitioner has filed the present petition seeking amendment of the plaint to incorporate the relief of declaration declaring the said sale deeds as null and void.

6.1. The third respondent vehemently opposed the petition contending that the relief sought by way of amendment is barred by limitation and that the reliefs have been undervalued. It is further contended that the petitioner is not in possession of the suit property and, in the absence of a prayer for recovery of possession, the petition is not maintainable. Hence, the third respondent prayed for dismissal of the petition.

6.2. A perusal of the records reveals that the respondents 3 and 4 were impleaded only in the year 2019, though the application for their impleadment had been filed as early as in the year 2017. Since the impugned transactions were effected during the pendency of the suit, the question of limitation does not arise in the strict sense, as the cause of action is a continuing one. Even otherwise, the alienations being *pendente lite*, the transferees are bound by the result of the suit. Further, the petitioner has stated that she came to know about the said transactions only after the lapse of three years from the date of execution of the last document in the year 2013. Thereafter, she filed the application to implead the respondents 3 and 4 in I.A. No.1326 of 2017, which was allowed on 14.03.2019, and subsequently filed I.A. No.369 of 2019, which was allowed on 28.04.2025. Thus, the proceedings were initiated within three years from the date of knowledge, namely on 04.09.2017, as contemplated under Article 59 of the Limitation Act, 1963, as stated in the affidavit filed by the petitioner in I.A. No.1326 of 2017.

6.3. In view of the above circumstances, this Court is of the considered view that the present petition has been filed within time and there is no legal bar to grant the relief sought. Hence, the petition is liable to be allowed and the point for consideration is answered in favour of the petitioner.

7. RESULT: In the result, for the foregoing reasons, this petition is allowed, leaving the parties to bear their own costs incurred in this petition.

Dictated to the Steno-typist, typed by her directly in the desktop, corrected and pronounced by me in open Court, on this the 12th day of March, 2026.

Principal Subordinate Judge,
Kancheepuram.

LIST OF WITNESS EXAMINED AND DOCUMENT EXHIBITED ON EITHER SIDE: Nil.

Principal Subordinate Judge,
Kancheepuram.
