

IN THE COURT OF PRINCIPAL DISTRICT MUNSIF AT
KANCHIPURAM

PRESENT: Tmt. Fanny Rajan, B.A.,B.L.(Hons)

Principal District Munsif, Kanchipuram

Tuesday, the 12th day of August 2025

I.A . No. 3 of 2024

in

O.S.No. 213 of 2022

CNR No. TNKP08-000475-2022

1. Tmt. P. Tamilselvi
2. Mr. K. Prithivikumar

....Petitioners/ Plaintiffs

/Versus/

1. N.C. Santhanam Sarry Private ltd., Kancheepuram
Rep by its Director Mr. N.C. Vijayakumar

2. N.C. Vijayakumar
- Respondents/Defendants

This Petition has come up on 21.07.2025 for final hearing before me in the presence of M/sV. Mohan, R. Kameshwari, P. Gowtham, counsels for the Petitioners and M/s. S. Aravind kumar, H. Sathick Basha, R. Sadamhussain and B. Arun counsels for the defendants, upon hearing the argument and upon perusing the connected material records and having stood over till this day for consideration, this court delivers the following orders:

ORDER

1. The petitioner filed this petition under order 6 Rule 17 and section 151 of CPC the petitioner to amend the plaint with particulars mentioned in this petition and permit to add declaration and pass such other suitable orders and thus render justice.

Concise Statement of the averments in the Petition filed by the Petitioner:

2. The petitioner has averred that the suit property absolutely belongs to the 1st petitioner having purchased through a registered sale deed dated 10.11.2008 for valuable consideration. Subsequently the revenue records were mutated in her name in Patta No. 1635 and she was in possession. They are into land development business and as such have purchased other lands also around the suit property. When they wanted to develop the layout and tried to fence, the defendants prevented. Hence, this suit for permanent injunction was filed.

3. The defendant entered appearance through their counsel and filed written statement on 28.08.2023. In which the defendant is claiming title 0.21 cents vide a registered sale deed dated 08.11.1991. From the tracing of revenue records, it is noted that Survey No.379/7 admeasuring 37 cents belonged to one Ponnappa Naikcer vide RSR (Revision Survey Resettlement) register document. He had 4

sons 1. Srinivasa Naicker, 2. Nallan Naicker. 3. Parasuraman Naicker 4. Natesa Naicker who orally partitioned the property after his demise. Whereby, the S.No.379/7 admeasuring 0.37 cents was allotted to Mr. Srinivasa Naicker and he became the absolute owner vide Patta no 290.

4. The said Mr Srinivasa Naicker had 5 legal heirs ie. 1. Murugappa Naicker, 2. Vedachalam, 3. Nagappa Naicker, 4. Ettiammal 5. Nallakannu and they mutated revenue Patta no.290 into their name as joint patta, after his demise. The said Ettiammal and Nallakannu died issueless/legal heirs. Murugappa naicker had one son Dhamodaran. After the demise of Ettiammal, Nallakannu, the remaining legal heirs Murugappa, Nagappa and Vedhachalam were jointly enjoying the property. After demise of Murugappa Naicker, his son Dhamodaran and others jointly enjoyed the property without any partition.

5. The said Nagappa Naicker (1), Vedhachalam Naicker (2), Dhamodaran (3), and Vedhachalam Naicker (4), Nagappa Naicker j (5) jointly sold the S.No.379/7 an extent of 0.37 cents to one Mr. V. Manickam s/o S.Valayutha Nadar through registered sale deed dated 20.03.2006 for valuable consideration. In pursuance of registered sale deed the said V. Manickam become absolute owner of the suit property and in possession with revenue patta no.453. He executed a General Power of attorney deed dated 11.01.2008 in favour of one V.

Duraipandi with right to sell. As the agent he sold the property vide registered sale deed dated 10.11.2008 to them. Thus, the 1st Petitioner is the owner and has got Patta no. 1635 and in possession.

6. In view of allegation of defendants that his Vendor Mr. Kannan has got property from one Vengai Naicker and in turn purchased by the defendant through registered sale deeds. The said Sale deeds are void abinitio and as Vengai Naicker has no right or title nexus with Murugappa Naicker. The deed is illegally created and does not create any right. The title claim in the written statement is illegal. Hence, this petition to amend the relief to include the declaration that the sale deeds created by defendants are null and void and not binding on the 1st petitioner's. It does not amend the character of the suit or new pleadings. Further it is necessary to avoid multiplicity of proceedings. No prejudice would be caused to other side. If not allowed, the petitioner would be put great loss and hardship and the amendment relief of declaration is within limitation as per provision of section 5 of limitation act. Hence this petition

Concise Statement of the averments of the Counter filed by Respondent:-

7. The respondent denied the allegations and stated the suit is filed for permanent injunction as the 1st plaintiff is the absolute owner and in possession. They have filed their detailed written statement detailing the title of the

respondents way back from 1980. Ever-since the date on purchase, the 1st respondent herein is in possession and enjoyment of the said property without any let or hindrance. The specific contention of the petitioners is that they purchased their property from one Mr. V. Manickam through his Power of Attorney Mr. Duraipandi. However, neither in the plaint, nor in the Parent Document i.e., the Sale Deed standing in the name of Mr. V.Manickam, there is no recitals that how the vendor of Mr.Manickam has acquired the titleship in respect of the suit schedule property.

8. Already 21 cents out of 37 cents were sold to the 1st respondent's vendor in the year 1980 itself. As such, the said Mr. Vengai Naicker only left with 16 cents of land in S.No.379/7. As such, neither the said Mr. Vengai Naicker nor his legal heirs has any capacity to sell property more than 16 cents which they actually own. Hence, though, the sale deed standing in the name of the 1st plaintiff, stands for the entire 37 cents, they could enjoy only 16 cents as already 21 cents in the said S.No. was sold to the 1st respondent's vendor. Though the petitioners herein have sufficient knowledge about all these facts, they filed the suit to harrass. Hence, this petition may be dismissed.

9. **POINT FOR DETERMINATION:** Whether the Petition to to amend the plaint with particulars mentioned in this petition has to be allowed or not?

DISCUSSION AND FINDINGS:

10. This Court considers the submissions of the Learned counsels for the Petitioner, Respondents and perused the materials on record. No oral or documentary evidence has been adduced by both parties. Upon perusal of records, this court finds that this instant petitions are filed to amend by the Petitioner/Plaintiff herein at the stage of issues.

11. One of the main contentions of the Petitioner is that she is the owner of the property through a valid registered sale deed. On filing the written statement, the defendants have claimed title to the suit property based 2 registered sale deeds and tracing their title. Thus, to avoid multicaplity of proceedings, this petition is filed to amend and add the reliefs regarding the declaration of the Sale Deeds through which the Defendants claim title as null and void. The knowledge of the deeds is upon the filing of the sale deed. He relied on the judgments in Krishnamurthy Vijayakumar Vs. K.S Srinivasan Producer, Vasan Vishal Ventures 2025 (2) CTC 528 and 1. D.H. Sarath Kumar, 2. Leelakumari, 3. Venkatesh, 4. Chowdry Vs. 1.P. Krishnamurthy, 2. Vanaja 2024 (6) CTC 647.

12. Per contra, the Respondents have raised objections on the ground that the Petitioners/Plaintiffs were aware of the deeds and they do not have any title in suit property. The persons through whom the Petitioners claim title did not have

any valid title for conveyance. Further, the defendants are in possession of the suit property and the plaintiff is not in possession. To overcome the said lacuna, this petition is filed to amend without any basis. Also the Plaintiff was always aware of the sale deeds in favour of the defendants and thus the relief is barred by limitation.

13. From a thorough reading of the Plaint, this court finds that the suit is filed for permanent injunction. The Written statement of the defendant claiming title is filed on 09.08.2023. Thereafter, this petition is filed to amend the prayer to include declaration against the deeds of title relied by the defendants. This court considers that in light of the averments in the written statement a prima facie cloud over title of the 1st petitioner in the suit property has been raised by the Defendants. Hence, it has become necessary for the Petitioner to get his title declared by negating the validity of the Sale Deeds through which the defendants have claimed title.

14. Now considering the contention regarding the knowledge of the Petitioners regarding the Sale Deeds under question and hence the relief of declaration is barred by limitation. This court finds that it is a well established principle of law that the question of limitation is a mixed question of fact and law.

15. This court also takes judicial note of the judgment in ***A.Thajudeen Vs. Tamil Nadu Khadi and Village Industries Board (2024 SCC online SC 3037)*** wherein the Hon'ble Supreme Court held that *as long as right to property subsists, a plea of declaration cannot be held to be barred by time. The ratio of the Judgment of the Supreme Court is that, if the right to property subsists, the relief for declaration being a continuing one, since the right to property is a continuing right, is not barred by time.*

16. In light of the judgment in ***Anathula Sudhakar Vs. B.Buchi Reddy (AIR 2008 SC 2033)***, wherein the Hon'ble Supreme Court held that in the suit of injunction too, the Court can incidentally go into the question of title. This court also taken into consideration the dictum in the judgments relied by the learnt counsel for the petitioner regarding. The importance of amendment pending suit. In this case the trial is yet to be commenced. The prayer to be amended is to establish the title of the Plaintiffs and declare that the Sale Deeds relied by the defendants is not binding on them and there was no conveyance of title.

17. The Plaintiff is claiming independent title over the suit property. In this case based on the cloud raised by the defendants through their written statement, the Plaintiff has sought to amend the prayer for declaration of title. Whether the issue of declaration of deeds as null and void is barred by limitation cannot be

determined at this juncture and should be decided only at the time of the judgment.

18. With regard to the contention relating to date of knowledge and barred by limitation, this court takes judicial note of the judgment in *Sampath Kumar v. Ayyakannu*, 2002 AIR SCW 3925

19. “An amendment once incorporated relates back to the date of the suit. However, the doctrine of relation back in the context of amendment of pleadings is not one of universal application and in appropriate cases, the Court is competent while permitting an amendment to direct that the amendment permitted by it shall not relate back to the date of the suit and to the extent permitted by it shall be deemed to have been brought before the Court on the date on which the application seeking the *amendment* was filed. (See observations in *Siddalingamma and another v. Mamtha Shenoy* (2001) 8 SCC 561).”

20. In light of the said judgment in respect of the amendment particulars in paragraph 10 of the plaint as relief (b) and (c), as per the petition, the issue regarding whether the right of the plaintiff has been barred by limitation shall be decided at the time of the judgment. This court considers that this case being for permanent injunction amended to declaration of deeds as null and void based on

independent right, is an exceptional case and the doctrine of relation back should not applied to this case. Further, issues regarding possession shall be framed and decided based on the ocular and documentary evidences. Hence, to provide a fair opportunity to the respondents to raise the contention regarding limitation aspect for the reliefs of declaration, this court finds that the amendment particulars shall be permitted subject to the issue of limitation and date of knowledge to be decided separately in the main suit at the time of trial. Apart from that the amendment particular in respect of valuation reveal that the relief of declaration is within the pecuniary jurisdiction of this Court.

21. In light of the above discussions, in the interest of justice this court is inclined to allow the amendment petition subject to the issue of limitation in respect of the amended particulars of the plaint shall be decided at the time of trial. Considering the nature of dispute between both the parties, this court considers that the parties shall bear their own costs.

RESULT :-

In the result, this petition is allowed and the Petitioner is permitted to carryout the amendment in the Plaint of OS No.213 of 2022 as per the amendment particulars in this petition subject to the issue of limitation in respect of the

newly added relief of declaration in 10 (b) and (c) shall be decided at the time of trial. No costs.

Dictated to the typist, who directly typed the same in her Computer, corrected and pronounced by me in open court, this the 12th day of August 2025.

PRINCIPAL DISTRICT MUNSIF
KANCHEEPURAM

Petitioner and defendant side witness and document : NIL

PRINCIPAL DISTRICT MUNSIF
KANCHEEPURAM