

IN THE COURT OF DISTRICT MUNSIF, VADIPATTI, MADURAI DT.

Present : Thiru. M.P. Ramkishore, B.E., BL., (Hon's)

District Munsif, Vadipatti

Dated this the 26th day of March 2026

EA. No.02 of 2026

in

EP. No.08 of 2018

1. S. Rajakani,

S/o. Sannasi Nadar

---- Petitioner / Petitioner / DH

//Versus//

1. S. Chinnathai (Died),

W/o. Sannasi Nadar

2. S. Vadivel Murugan (Died),

S/o. Sannasi Nadar

3. S. Mariappan,

S/o. Sannasi Nadar

4. Sivabackiyam,

W/o. Anandhan Nadar

5. B. Karuppanan,

S/o. Periyampillai

6. A. Murugesan (Died),

S/o. Andiappan

7. M. Perumal,

S/o. Mariappa Nadar

8. V. Amsavalli,

D/o. Vadivel Murugan

9. V. Subbulakshmi,
W/o. Vadivel Murugan
10. V. Madasamy,
S/o. Vadivel Murugan
11. V. Rajendran,
S/o. Vadivel Murugan
12. R. Malathi,
D/o. Late. Rajamanickam
13. Minor. R. Kingu @ Kishore,
S/o. Late. Rajamanickam
14. Minor. R. Janani,
D/o. Late. Rajamanickam
15. Muthaye (Died),
W/o. Late. A. Murugesan
16. M. Kannan,
S/o. Late. A. Murugesan
17. M. Ganesan,
S/o. Late. A. Murugesan
18. M. Kajendran,
S/o. Late. A. Murugesan
19. M. Kumar,
S/o. Late. A. Murugesan
20. Mariammal,
W/o. Krishnan
21. Indhurani,
W/o. Periyampillai

---- Respondents / Respondents / Defendants

This petition was filed before this Court on 24.02.2026 coming before me for final hearing on 26.03.2026, Advocate Thiru. Balamurugan appeared for the Petitioner / Petitioner / DH. Advocate Thiru. C. Ramesh appeared for R16 to 19. R1, R2, R15 and R16 died. R7 ex-parte on 15.02.2021, R4 ex-parte on 03.07.2018, R3 and R5 ex-parte on 31.10.2025, R8, R9 ex-parte on 04.09.2025, R11 to 14 ex-parte on 29.08.2025 and R20, R21 ex-parte on 19.09.2025 in the main EP. Upon hearing the arguments advanced by both the sides' counsel and upon perusing the available material records, today this Court has delivered the following....

ORDER

1. This petition was filed under order 6 R 17 and sec.151 of cpc to amend the schedule of property in EP. No.08 of 2018.

2. Petition averments in brief:

The relevant portion of the petition was that the petitioner was the decree holder in the main suit in O.S. No.190/2008 and decree was passed in the suit on 02.11.2017 to partition the suit mentioned property and to hand over the physical possession of 1/5th share of the property to the petitioner. Despite the decree, the respondent refused to hand over the petitioner's share. Thus the EP. No.8 of 2018 was filed to execute the decree passed in OS. No.190/2008. Further at the time of filing the said execution petition, the petitioner did not possess the complete particulars of the E.P. schedule property. At present the petitioner obtained the correct particulars of the EP mentioned property. Thus the petitioner filed this present petition to amend the affidavit of the main EP. No.8 of 2018.

3. Counter averments of (R16 to R19) in brief:

The respondents denied the entire averments of the petition and alleged that the petitioner had fraudulently obtained decree in O.S. No.190 of 2008 in respect of the 1/5th share in EP. schedule property in the suit, which was originally purchased by the 6th respondent from the 2nd respondent by virtue of sale deed dated 13.09.2004. Wherein no order was passed to declare the sale deed dated 13.09.2004 as null and void. Thereby the petitioner do not have any right

over the EP. schedule property. Hence the petitioner cannot seek relief to amend the particulars of the EP mentioned property without any lawful right over the property and if so the petitioner ought to have filed this present petition under order 21 rule 17. But he failed to do so. Thus this petition is liable to be dismissed.

4. Heard, records perused. The decree holder (D.H.) established that despite the court decree in O.S. No.190/2008, the judgment debtors (JD's) had not delivered physical possession of the 1/5th share of the property. Hence, the D.H. filed the main EP to execute the decree and obtain his rightful share but at the time of filing the EP the correct particulars of the EP schedule of property was not possessed by the petitioner. Thereby the present petition was filed to amend the EP. No.08 of 2018 as the particulars were found by the petitioner only at present.

5. The respondents disputed the petitioner's claim, and alleged that the property scheduled in the main EP did not belong to the petitioner. But the petitioner had obtained a decree in O.S. No.190/2008 by suppressing material facts and filed the main EP., to execute the decree in O.S. No.190/2008 without getting any declaratory relief to cancel the sale deed 13.09.2004 executed by the 2nd respondent in favour of the 6th respondent in respect of the EP. schedule of property and subsequently filed this present petition, despite not having rightful claim to the property in the main EP.

6. Admittedly, this present E.A. was filed to amend the particulars of the EP. mentioned property as correct particulars of the property was not known to the petitioner at the time filing the main EP., as it was filed for execution of decree dated 02.11.2017 passed by this court in O.S. No.190/2008. But the respondents (judgment debtors) plead that the petitioner obtained the decree through suppression of facts and does not have rightful claim to the property and also pleaded that despite not having lawful right over the EP mentioned property and hence the petitioner cannot seek the relief of amendment to amend the particulars of the EP mentioned property by false provision under order 6 rule 17 instead of order 21 rule 17 of cpc in the execution proceedings.

7. Though the respondent had averred the contention in his counter affidavit, the points raised are subject to proof and shall be considered before passing a decree in the main suit in O.S. No.190/2008 or by preferring appeal against the order of this court, which cannot be taken into consideration to decide this present E.A. as this petition was filed only to amend the E.P. mentioned properties for getting proper delivery of property based on final decree. Thus this court is inclined to allow this petition without imposing any costs.

8. **In the result**, this petition is allowed. The petitioner shall carryout amendment in the E.P. No.08 of 2018 by filing A.P.C. on or before the next date of hearing in the main EP.

Directly dictated to the Stenographer and computerized, error checked and pronounced in the open court on 26th day of March 2026.

District Munsif,
Vadipatti.

Petitioner side witness and documents: Nil

Respondents side witness and documents : Nil

District Munsif,
Vadipatti.

DISTRICT MUNSIF COURT

Vadipatti

Fair Order/~~Draft Order~~

EA. No.2 of 2026

In

EP. No.8 of 2018

Date : 26.03.2026