



IN THE COURT OF DISTRICT MUNSIF, VADIPATTI

PRESENT: Thiru. M.P. Ramkishore, B.E., B.L., Hons'

District Munsif, Vadipatti.

Dated this the 02nd day of December 2025

I.A.No.3 /2025

in

O.S.No.111 / 2018

CNR. No. TNMD190001342018

1. R. Jeganathan,
S/o. Late. M. Ramu

.... Petitioner / Plaintiff

//Versus//

1. R. Ulaganathan (Died),
S/o. Late. Ramu
2. Assistant Electrical Engineer
TNEB Office, Sholavandhan
3. Tahsildar,
Vadipatti Taluk,
Madurai.
4. U. Sarathy,
S/o. Late. Ulaganathan
5. U. Soroobasamy,
S/o. Late. Ulaganathan
6. U. Vimalathithan,
S/o. Late. Ulaganathan

.... Respondents / Defendants



This petition is filed before this Court on 15.10.2025 and Advocate Thiru. M. Venkatesan appeared for the Petitioner / Plaintiff. R1 died. Learned Government Pleader appeared for R2 and R3. Advocate Thiru. M. Thiyagarajan appeared for R4 to R6. Upon hearing the arguments advanced by both side's counsel and upon perusing the available material records, today this Court has delivered the following....

ORDER

1. This petition was filed seeking permission to amend the plaint.

2. Petition facts in brief:

i. The relevant facts pleaded in the petition was that, the petitioner was the plaintiff in the main suit that was filed seeking declaration and injunction. In the main suit trial was over and it was pending for arguments.

ii. In the main suit the petitioner had sought for injunction as not to change the name of the E.B. connection in the suit property. But pending suit the name of the E.B. Connection was changed by the respondents. Hence it is necessary to amend the old relief of injunction to mandatory injunction to restore the connection to its former name.

iii. Further the suit was already filed seeking declaration regarding a Well in the survey no.52/1A. But at present it is necessary to amend the plaint regarding the 10 feet wide pathway in survey no.52/1B to the said Well. This amendment is necessary to utilize the Well. The petitioner had filed a rough plan with this petition to explain the property. the petitioner had sought the amendment regarding the pathway based on the suit documents.

iv. The above said amendments were necessary for the suit and they were omitted to add in the plaint during filing the plaint. Also the plaint needed to be amended based on the impleaded legal heirs of the deceased 1st defendant. Permitting these amendments do not change the nature of the plaint or cause of action in any way. As the above amendments were necessary for the suit, the petitioner filed this petition.



3. Counter facts in brief:

i. The respondent had admitted that trial was over in the main suit but denied the other contentions of the petitioner. The respondent further pleaded that, the respondent had filed their written statement in the suit on 05.03.2019 by denying the pathway. But the petitioner had came up with this petition only now, hence it was barred by limitation.

ii. In this main suit advocate commissioner was appointed and he had filed report and plan. The report was marked in evidence and entire trial was over. In such circumstance the petitioner had came up with a frivolous petition and a new rough plan to delay the main suit proceeding. The petitioner knowing that the new relief of mandatory injunction was barred by limitation, he had not even pleaded the date of changing the name of E.B. Connection.

iii. Permitting this petition would change the nature and cause of action of the main suit. As the trial in the main suit was already over, the petitioner cannot seek to amend the plaint. Hence the petition may be dismissed.

4. Both the sides did not file any documents in this proceeding.

5. **Point for consideration:** Whether this petition could be allowed?

i. Heard both sides, Records perused. The learned petitioner council had argued as the petition mentioned amendments were necessary to the plaint and hence it may be allowed. On the other hand the learned respondent council by relying the judgment of our Hon'ble High Court in Vijayakumar v. Sumathi (C.R.P. (P.D.) No. 1363 of 2017) had argued as amendment cannot be allowed after completion of trial.

ii. Considering the both side submissions, looking into the petition in hand, this court can filed that, the suit was filed in 2018 seeking to declare the suit property including land, Well, pump room, electricity connection and pathway to the well as a common property, to declare the patta in the name of 1st defendant as void and permanent injunction not to



change the name of E.B. Connection. Further at present entire trial in the suit was over and it was pending for arguments, in such stage this petition for amendment was filed.

iii. From both side arguments, this court can find that, according to the petitioner / plaintiff, he and the deceased 1st respondent / 1st defendant were brothers. Along with their mother, they entered into a registered family partition deed dated 20.06.2008. By which the Well with pump room in survey no.52/1A was to be kept common to the properties in 52/1B and 52/1C was accidentally executed as the entire property in survey no. 52/1A was allotted to the 1st defendant. But on the same day a unregistered rectification deed was executed. The property in survey no. 52/1A was shown as common property in the subsequent deeds registered by the petitioner and the 1st respondent. But as later dispute arose regarding the well, the petitioner / plaintiff had filed this suit. In the suit, the declaration was sought for the Well and the pathway to the well but as the survey number of the pathway was omitted in the plaint, this petition was filed. On the contrary the respondent denied the entire petitioner contentions and stated that the property with well was allotted to them individually, hence the petitioner cannot claim any right in that well.

- iv. In this petition totally 7 amendments were sought to be made. Among them;
- a. 1st amendment was sought to include claim on a 10 feet wide pathway in survey no.52/1B to utilize the Well in survey no.52/1A.
 - b. 2nd amendment was sought to include suit valuation particulars for the newly proposed relief of declaration, 3rd amendment was to change the total value of the suit valuation.
 - c. 4th amendment was regarding the death of 1st defendant and his impleaded legal heirs 4 to 6 defendants.
 - d. 5th amendment was sought to include a new relief on declaration to pathway in survey no. 52/1B.
 - e. 6th amendment was sought to change the previous existing relief of permanent injunction seeking not to change the name of E.B. Connection to “mandatory injunction to change the E.B. Connection to its former name.”



f. 7th amendment was sought to include a new schedule of property showing the 10 feet pathway in survey no. 52/1B.

v. On perusal of above 7 amendments, the 4th amendment was regarding the deceased 1st defendant and his newly added heirs. This amendment being consequential need not be sought to be amended by filing this petition but can be automatically carried out by informing the court.

vi. The 6th amendment was sought to change the existing relief of “permanent injunction as not to change the E.B. Connection name to the 1st defendant” into “mandatory injunction to convert the name of E.B. Connection to its former name” was sought as the E.B. Connection name was changed during the pendency of the suit. Though the respondent challenger the above relief as it was barred by limitation, he did not disclose the date of this name change and the date it was brought to the notice of the petitioner. Hence it cannot be held as this relief was barred by limitation by mere pleadings in the respondents counter.

vii. Further the remaining amendments in No. 1, 2, 3, 5 and 7 were connected together. These amendments were sought mainly to include the relief of declaration regarding the 10 feet wide pathway in survey no. 52/1B. This survey number was not at all mentioned in the plaint schedule but proposed to be added by this amendment. On perusal of entire materials before this court, the plaint was filed to declare that the land with well, pump room, E.B. Connection and 10 feet wide pathway to the Well was common property of the petitioner / plaintiff and the 1st respondent / 1st defendant. According to the petitioner the pathway to the Well was pleaded in the plaint but only the survey number of the pathway was omitted to be added in the plaint. Hence this amendment seems to be fair on the part of the plaint, as contesting a case for a Well without pathway to reach it would only make the suit proceeding infructuous and would result in further litigation. But as objected by the learned respondent council as the trial was already over, the petitioner cannot seek to amend the plaint, this court had to look into the law laid down by superior courts.



viii. In this regard *our Hon'ble Supreme Court in Life Insurance Corporation of India v. Sanjeev Builders Pvt. Ltd. & Anr. (2022 SCC OnLine SC 1128)* had held as,

“70. Our final conclusions may be summed up thus:

(i) Order II Rule 2 CPC operates as a bar against a subsequent suit if the requisite conditions for application thereof are satisfied and the field of amendment of pleadings falls far beyond its purview.

The plea of amendment being barred under Order II Rule 2 CPC is, thus, misconceived and hence negatived.

(ii) All amendments are to be allowed which are necessary for determining the real question in controversy provided it does not cause injustice or prejudice to the other side. This is mandatory, as is apparent from the use of the word “shall”, in the latter part of Order VI Rule 17 of the CPC.

(iii) The prayer for amendment is to be allowed

(i) if the amendment is required for effective and proper adjudication of the controversy between the parties, and

(ii) to avoid multiplicity of proceedings, provided

(a) the amendment does not result in injustice to the other side,

(b) by the amendment, the parties seeking amendment does not seek to withdraw any clear admission made by the party which confers a right on the other side and

(c) the amendment does not raise a time barred claim, resulting in divesting of the other side of a valuable accrued right (in certain situations).



(iv) A prayer for amendment is generally required to be allowed unless

(i) by the amendment, a time barred claim is sought to be introduced, in which case the fact that the claim would be time barred becomes a relevant factor for consideration,

(ii) the amendment changes the nature of the suit,

(iii) the prayer for amendment is malafide, or

(iv) by the amendment, the other side loses a valid defence.

(v) In dealing with a prayer for amendment of pleadings, the court should avoid a hypertechnical approach, and is ordinarily required to be liberal especially where the opposite party can be compensated by costs.

(vi) Where the amendment would enable the court to pin-pointedly consider the dispute and would aid in rendering a more satisfactory decision, the prayer for amendment should be allowed.

(vii) Where the amendment merely sought to introduce an additional or a new approach without introducing a time barred cause of action, the amendment is liable to be allowed even after expiry of limitation.

(viii) Amendment may be justifiably allowed where it is intended to rectify the absence of material particulars in the plaint.

(ix) Delay in applying for amendment alone is not a ground to disallow the prayer. Where the aspect of delay is arguable, the prayer for amendment could be allowed and the issue of limitation framed separately for decision.

(x) Where the amendment changes the nature of the suit or the cause of action, so as to set up an entirely new case, foreign to the case set up in the plaint, the amendment must be disallowed. Where, however, the amendment sought is only with respect to the relief in the plaint, and is predicated on facts which are already pleaded in the plaint, ordinarily the amendment is required to be allowed.

(xi) Where the amendment is sought before commencement of trial, the court is required to be liberal in its approach. The court is required to bear in mind the fact that the opposite party would have a chance to meet the case set up in amendment. As such, where the amendment does not result in irreparable prejudice to the opposite party, or divest the opposite party of an advantage which it had secured as a result of an admission by the party



seeking amendment, the amendment is required to be allowed. Equally, where the amendment is necessary for the court to effectively adjudicate on the main issues in controversy between the parties, the amendment should be allowed. (See Vijay Gupta v. Gagninder Kr. Gandhi & Ors., 2022 SCC OnLine Del 1897)”

ix. Thus in the light of above referred judgment of our Hon’ble Supreme Court, on analyzing the petition to amend the plaint in hand, it can be found that the relief of declaration regarding the Well and its pathway was already existing in the plaint. By way of amendments No. 1, 2, 3, 5 and 7 listed in the petition, the survey number of the pathway is alone sought to be added. From both side arguments, this new survey number was already mentioned in the plaint and its documents. Hence the amendments sought to be made for the 10 feet wide pathway do not alter the nature of the suit or its cause of action. Further this court is of the view that contesting a case for rights in Well without pathway to the Well would be point less and would make the present litigation travesty of justice and cause further litigation. The other amendment regarding E.B. Connection name was due to subsequent change hence it cannot be avoided. Though the amendments sought were subject to proof, they cannot be avoided to be made without giving opportunity for the petitioner / plaintiff to contest for these reliefs.

x. Further according to the guidelines of Hon’ble Supreme Court as referred above, as the amendment was sought by the petitioner after entire trial was over, the respondents / defendants had contested the case since 2018 had to be adequately compensated. Thereby this court calculate the cost of this petition as Rs.2000 per year since the date of filing this suit was in that year 2018 would amount to Rs.14000/- for 7 years. Further Rs.1000/- cost to be imposed for making the defendants to recontest the suit by making amendment.

xi. ***In the result***, this petition is allowed on cost of Rs.15,000/-. Cost shall be paid on or before the next hearing of the main suit. The petitioner is directed to file amended plaint copy without delay and to proceed with suit without getting adjournments.



Directly dictated to the Stenographer and computerized error checked and pronounced in the open court on *the 02nd day of December 2025.*

District Munsif,
Vadipatti.

Petitioners side witness and documents :Nil

Respondents side witness and documents:Nil

District Munsif,
Vadipatti.



DISTRICT MUNSIF COURT,
Vadipatti
I.A.No.3/ 2025
in
O.S. No.111 / 2018
Fair Order / ~~Draft Order~~
Dated: 02.12.2025