

IN THE COURT OF DISTRICT MUNSIF, VADIPATTI

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

District Munsif, Vadipatti.

Dated this the 28th day of January 2026

I.A. No.3 / 2025

in

O.S. No.96 / 2019

CNR. No. TNMD19000152019

1. S. Mariyammal,
W/o. Selvaraj

.... Petitioner / Plaintiff

//Versus//

1. Dhanalakshmi,
W/o. Rajendran
2. Vijayalakshmi,
W/o. Baskaran
3. The Sub Registrar,
Solvandhan Sub Registration Office,
Vadipatti Taluk, Madurai.
4. Deepa,
D/o. Arichandran

.... Respondents / Defendants

This petition is filed before this Court on 28.07.2025 and coming for final hearing on 28.01.2026 in the presence of Advocate Thiru. M. Thiyagarajan appeared for the Petitioner / Plaintiff. Advocate Thiru. Arichandran appeared for R1, R2 and R4. Learned Government Pleader for R3. 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:**

The relevant facts pleaded in the petition was that, the petitioner was the plaintiff in the main suit that was filed seeking for permanent Injunction. According to the petitioner the suit properties belonged to the petitioner and his family, as it was inherited by them from their predecessors. Being so, the respondents 1 and 2 made disturbance to the petitioner's possession in the suit properties. Thus the main suit was filed. During pendency of the suit proceedings, the respondents 1 and 2 had fraudulently alienated the suit properties in S.No's.482/2, 482/1 and 486/3A to the 4th respondent by virtue of a sale deed dated 09.09.2019. Thereby the 4th respondent colluded with the 1 and 2 respondents attempted to disturb the peaceful possession of the petitioners in the suit properties. Hence the petitioner filed this petition to amend the prayer of the plaint, by including the relief to declare the subsequent sale deed as null and void.

3. **Facts of the counter in brief: (Counter of R3 not filed)**

The respondents 1, 2 and 4 had denied all the averments of the petition and further pleaded that, the present petition was filed to amend the relief of plaint by alleging the sale deed dated 09.09.2019 which was executed prior to the filing of this main suit on 26.09.2019. There was no suit pending on the date of the sale deed, hence there was no bar to execute the sale. Thereby this petition was filed only after 6 years. Hence this petition was filed only to delay the suit proceedings. Thus the petition is liable to be dismissed with costs.

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

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

i. Records perused. Heard both sides. According to the learned petitioner counsel, the

petition mentioned amendments were necessary to the plaint to prevent further litigation, hence it may be allowed. On the other hand, the learned respondent counsel 1, 2 and 4 had argued that the main suit was pending for trial, the sale deed dated 09.09.2019 executed before the filing of this suit, hence the ground sought for amendment was not at all valid, this present petition was filed without any merits but only to protract the suit hence it was liable to be dismissed.

ii. Considering the both side submissions, looking into the petition in hand, this court can find that, the suit was filed in 2019 seeking permanent injunction regarding the suit property. Further at present the suit was pending for trial, in such stage this petition for amendment was filed.

iii. From both side submissions, this court can find that, according to the petitioner / plaintiff, the suit properties belonged to him by inheritance. But the respondents allegedly encumbered the properties mentioned in suit by virtue of forged sale deed by suppressing the above material facts. Thereby the plaint is needed to be amended. On the other hand, the respondents contended that the petitioner was well aware of the document executed by the respondents 1 and 2 in favour of 4th respondent before filing this suit as it was executed prior to filing of this suit. But the petitioner intentionally omitted to sought the declaratory relief against the respondents 1, 2 and 4 in the plaint at the time of filing this suit. At present she came up with this present petition to amend the prayer of the plaint without any valid reason. Thus the petition is not at all necessary at present.

iv. 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 negated.

(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)”

v. 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 to declare a sale deed dated 09.09.2019 as null and void was sought to be included in the plaint. Admittedly the suit was pending in the stage of trial, the petition to amend the plaint was filed. The petition had clearly disclosed that as the 4th respondent had

purchased the part of the property, she was impleaded by the order passed in I.A. No. 294/2021 dated 23.03.2021. Hence it is clear that the petitioner had knowledge about the above said sale deed at that time of impleading the 4th respondent. In such scenario, the petitioner / plaintiff ought to have filed this petition for amendment at the time of filing impleading petition itself. The main suit was of the year 2019, the 4th respondent being subsequent purchaser was impleaded in the suit in 2021 but this petition to include the prayer to declare the sale deed in favor of the 4th respondent was filed only at present. This clearly shows the petitioner had sought for declaration after 4 years of adding the 4th respondent in the suit, which had become a time barred relief at present.

vi. The judgment of our Hon'ble Apex Court as referred above had clearly directed that time barred relief cannot be permitted by way of amendment. Hence from the bare perusal of the petition pleadings, as the amendment sought to be made was clearly found to be a time barred relief, it cannot be permitted to be included in the plaint.

6. ***In the result***, this petition is dismissed. No costs.

Directly dictated to the Stenographer and computerized error checked and pronounced in the open court on *the 28th day of January 2026*.

District Munsif,
Vadipatti.

Petitioner 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.96 / 2019
Fair Order / ~~Draft Order~~
Dated: 28.01.2026