

IN THE COURT OF THE DISTRICT MUNSIF, KUMARAPALAYAM

Present: Selvi. T. Naveena B.com. LL.B (Hons.),

District Munsif,

Kumarapalayam.

Thursday the 11th day of June 2026

I.A.No:07/2026

IN

I.A.No:06/2026

IN

O.S.No:348/2020

1. Natarajan
2. Seerangan
3. Gopalakrishnan
4. Kandasamy (Died)
5. Kalaiarasan
6. Sasikumar
7. Ganesan (Died)
8. Munusamy
9. Palanisamy
10. Mani
11. Kannaiyan
12. Vijaya
13. Chandra

...

Petitioners/Defendants

/Vs/

1. L.Ramasamy
2. L.Muthusamy (a) Chinnadurai

...

Respondents/Plaintiffs

This petition came for final hearing before this court on 08.06.2026 in the presence of Thiru. M.Jahir Hussain, Advocate for the Petitioners/Defendants and Thiru. S.Elango, Advocate for the Respondents/Plaintiffs and upon perusal of material records and having stood over for consideration till this date, this court delivers the following:

ORDERS

This petition has been filed under Order VI Rule 17 r/w Section 151 of Code of Civil Procedure.

1. BRIEF FACTS OF THE PETITION WOULD RUN AS FOLLOWS:

The respondents have filed the above suit for permanent injunction against the petitioners. The above suit has been posted for further defendants' side evidence. The petitioners have filed a petition to examine the Kumarapalayam Tahsildar. Since the above suit is pending and since S.No:561/12 is a government Puramboke land, the petitioners were unable to procure documents pertaining to the same. It is sufficient if the Kumarapalayam Tahsildar is asked to produce the documents regarding the S.No:561/12. Since the issues in the present suit have been framed regarding the S.No:561/12 and 93/22, it is necessary to produce the evidence regarding the said properties. Therefore, some amendments have to be made in the petition filed to summon the Tahsildar to file documents and depose his evidence. The proposed amendment will not alter the nature of the suit.

2. GIST OF THE COUNTER STATEMENT FILED BY THE 1ST RESPONDENT AND ADOPTED BY THE 2ND RESPONDENT WOULD RUN AS FOLLOWS:

The respondent denied all the allegations made by the petitioner except those admitted as true. Order VI Rule 17 CPC contemplates amendment of pleadings, which means plaint or written statement. The particulars furnished under the caption 'Details of Documents to be Summoned' do not constitute pleadings and therefore are not amenable to amendment under Order VI Rule 17 CPC.

Already, the application to summon the witness has been objected that the documents described therein amount directly to a 'fishing and roving enquiry'. Now, the words directly amounting to 'fishing and roving enquiry' are sought to be removed, making the attempt to fish for the evidence, indirect. The "details of documents to be summoned" are the very foundation of the summoning request. They are not pleadings that are capable of amendment under Order VI Rule 17 CPC. By deleting those particulars, the petitioner is not amending a pleading but is attempting to alter the scope and nature of the documents originally sought.

Once the application was filed and objections were raised that the request amounted to fishing evidence, the applicant cannot evade adjudication by removing the objectionable particulars through an amendment petition. The amendment is not one of pleadings, but it substantially changes the character of the summoning application. The petitioner cannot withdraw the objectionable portion after the defect

has been pointed out and then seek the same relief in a different form, to fill up the lacuna of the petition already filed.

The proposed amendment does not correct a pleading. It seeks to remove the lacuna. So, the amendment is an attempt to avoid the objection that the request amounts to a fishing and roving enquiry, and therefore ought not to be permitted. The maintainability of the original application has to be examined on the basis of the pleadings and particulars originally presented before this Court. A party cannot, after objections have been raised exposing the defect in the application, seek to delete the very particulars giving rise to the objection and thereby avoid an adjudication on the merits of such objection. Hence, the respondents prayed the court to dismiss the petition.

3. **ISSUES:** Whether or not the proposed amendment be allowed to be made in I.A.No:6/2026 as prayed?

4. **DISCUSSION:**

Heard. Records perused. The above suit has been filed by the respondent for the relief of permanent injunction against the petitioners. The petitioners herein have filed the above I.A.No:6/2026 to summon the Tahsildar of Kumarapalayam to produce documents showing the owner of Sri Sakthi Vinayagar Temple and the Adangal, A-Register, Patta and other relevant documents regarding S.No:561/12 and to depose regarding the same and to bring Adangal, A-Register, Patta and other relevant documents regarding the properties situated to the four sides of the said

temple and also to produce the documents regarding the present and old survey numbers pertaining to S.No:561/12 and the documents regarding S.No:93/22 of Elandhakuttai Village.

The present petition has been filed by the petitioners to remove the proposed averments found in the petition regarding the procurement of documents regarding the ownership of Sri Vinayagar Temple and the Adangal, A-Register, Patta and other relevant documents regarding the properties situated to the four sides of the said temple. The contention of the petitioners is that the proposed amendment is necessary since the evidence regarding the S.No:561/12 and 93/22 are sufficient for the determination of the present suit. The contention of the respondents is that the proposed amendment cannot be made under Order VI Rule 17 since the same pertains only to amend the pleadings and that the petitioners are fishing evidence and are trying to alter the scope and nature of the documents originally sought.

From the perusal of records, this court observes that the petitioners have sought to amend the petition filed I.A.No:6/2026 wherein the petitioners have sought to remove the lines: “அமைந்துள்ள ஸ்ரீசக்தி விநாயகர் கோயில் யாருக்கு பாத்தியம் என்பதற்கு.....செய்யவும், மேற்படி கோயிலுக்கு வடபுறம், கீழ்புறம், மேபுறம், தென்புறம் உள்ள இடம் யார் பெயரில் உள்ளது என்பதை

காட்டக்கூடிய அடங்கல், ஆ-பதிவேடு, பட்டா மற்றும் அதை சார்ந்த அனைத்து

ஆவணங்களையும் தாக்கல்” that has been mentioned in the details sought by the petitioner for the Tahsildar of Kumarapalayam to produce through the said petition. The petitioners have not stated any specific reasons for seeking to remove the proposed details, thereby removing details sought regarding the Sri Sakthi Vinayagar Temple and the properties to the North, South, East and West of the said Temple in the said petition.

Though the petitioners have not stated specific reasons for the same, it is the discretion of the petitioners to seek for only the necessary documents and examine the witnesses necessary to establish their case before this court. The parties to the suit cannot be compelled to seek for the production of documents by a witness and to examine the said witness, regarding the details that the said party do not intend to produce as evidence before this court, unless the same is required.

As rightly stated by the respondents, amendment under Order VI Rule 17 shall be made only to amend the pleading, which is plaint or written statement. However, the object of the said provision cannot be limited to amend only the pleading but may be construed at large to make amendments in the applications made by the parties to the suit, to secure the ends of justice, if the same is necessary for proper adjudication of the issues involved in the suit. This court considers that the proposed amendment is necessary to enable the petitioners herein to seek for only the necessary documents

regarding the facts that the petitioners intend to put forth as part of their evidence.

Hence, to ensure the right of the petitioners to adduce necessary evidence in support of their case and to secure the ends of justice, this Court considers that the proposed amendment ought to be permitted to be made in I.A.No:6/2026 as proposed. Moreover, no prejudice would be caused to the respondents if the present petition is allowed, since the respondents would be given a chance to file their additional counter statement. Therefore, from the foregoing discussions, this court is of the opinion that the petitioners shall be allowed to amend the petition in I.A.No:6/2026 as proposed.

In the result, this petition is ALLOWED. No costs.

Dictated by me to the Steno-Typist and has been typed in the computer directly, corrected and pronounced by me in the open Court on 11th day of June 2026.

District Munsif,
Kumarapalayam.

PETITIONER SIDE DOCUMENTS:

Nil

RESPONDENT SIDE DOCUMENTS:

Nil

District Munsif,
Kumarapalayam.

Fair Orders
I.A. No: 07/2026 IN
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O.S. No: 348/2020
Dated: 11.06.2026