



**IN THE COURT OF THE DISTRICT MUNSIF OF UDHAGAMANDALAM,
THE NILGIRIS**

Present: **Thiru. L.PRAKASH, B.Sc., B.L.,**
District Munsif, Udhagamandalam

Thursday, the 25th day of June 2026

I.A. No. 02 of 2026
in
O.S. No. 74 of 2020
(C.N.R. No. TNNS030 - 00110 - 2020)

1. Anthony

2. Sarathkumar

... Petitioners/Defendants

/Vs/

E. Mahalingam

... Respondent/Plaintiff

This petition came on 18.06.2026 before me for final hearing in the presence of Tr. D. Jeyaraman, learned counsel for the Petitioners/Defendants and of Tr. B.S. Sivakumar, learned counsel appearing for the Respondent/Plaintiff, upon hearing both sides, and upon considering case records carefully, this court passes the following :

ORDER

1. This petition is filed under order XIV Rule 5(1) read with Section 151 of Civil Procedure Code praying to frame an additional issues of law as per the draft issue mentioned in the petition.

Gist of Petition and affidavit:

2. The 2nd petitioner/2nd defendant states that, the respondent/plaintiff originally filed this suit for a bare injunction, later amending the plaint in 2023 to



seek declaration of title and injunction. The defendants raised limitation as a defence in the additional written statement, but the Court framed additional issues on declaration only, not on limitation. The defendants maintain the suit is barred by limitation. After the plaint amendment, the issue of limitation has become important in the suit. Since the Court has power to frame additional issues based on pleadings before passing a decree, it is necessary to frame the limitation issue, failing to do so would cause hardship and irreparable loss. Hence, the petitioners/defendants pray to frame the additional issues on limitation in the interest of justice.

Gist of Counter Statement:

3. The respondent/plaintiff in his counter statement opposing the petition , it is contended that, the petition is false, frivolous, vexatious and not maintainable in law or on facts. The respondent denies all allegations in the affidavit except those specifically admitted, and requires the claimant/defendant to strictly prove each allegation. The respondent contends that since the petitioners disputed title in their written statement in the year 2022, and the suit was amended for declaration in 2023, the limitation period has not expired and the amended suit is within time. Hence, prays to dismiss the petition with cost.

Points for consideration:

4. Heard both sides, the petition and counter statement and case records perused carefully. The petition is filed under Order XVI Rule 5(1) R/w Section 151 of the Code of Civil Procedure, seeking to frame an additional issue of law as per the draft issue mentioned in the accompanying petition. It is to be decided that whether the petition is liable to be allowed or not as prayed by them?

**Discussion:**

5. The present petition has been filed by the petitioners/defendants under Order XIV Rule 5(1) read with Section 151 of the Code of Civil Procedure seeking framing of an additional issue of law relating to limitation. It is the contention of the petitioners/defendants that the suit was originally instituted in the year 2020 as a suit for bare injunction and that subsequently the plaint came to be amended in the year 2023 by incorporating the relief of declaration of title. According to the petitioners, in the additional written statement they have specifically pleaded that the relief of declaration is barred by limitation and, therefore, an additional issue relating to limitation is required to be framed for proper adjudication of the dispute. The respondent/plaintiff resisted the petition contending that the defendants disputed the plaintiff's title only in the written statement filed in the year 2022 and that the amendment seeking declaration was carried out in the year 2023 and, therefore, the claim for declaration is within limitation.

6. Before advertent to the rival contentions, it is useful to refer to Order XIV Rule 1 and Rule 5 of the Code of Civil Procedure. Order XIV Rule 1 CPC contemplates framing of issues when a material proposition of fact or law is affirmed by one party and denied by the other. Order XIV Rule 5 CPC empowers the Court, at any time before passing a decree, to amend the issues framed or frame additional issues as may be necessary for determining the matters in controversy between the parties. The object of framing issues is to ascertain the real dispute between the parties and to focus the trial upon the material questions arising from the pleadings.

7. It is settled law that framing of proper issues is essential for a fair trial and that issues arise when a material proposition of fact or law is affirmed by one party and denied by the other, further, issues are required to be framed on all material propositions arising from the pleadings of the parties and that omission to frame a



necessary issue may result in failure of justice.

8. A perusal of the records reveals that the petitioners/defendants have specifically raised a plea in the additional written statement that the relief of declaration sought by the plaintiff is barred by limitation. On the other hand, the respondent/plaintiff has disputed the said contention and has pleaded that the amendment introducing the relief of declaration was made within the period prescribed by law. Thus, there exists a clear dispute between the parties on a material proposition of law concerning limitation.

9. It is well settled that limitation is generally a mixed question of law and fact. Determination of limitation depends upon disputed questions of fact, the issue cannot ordinarily be decided without evidence. The question of limitation often involves mixed questions of law and fact and may require adjudication upon evidence.

10. In the present case, though the petitioners/defendants contend that the prayer for declaration is barred by law, the respondent/plaintiff contends that the suit was originally filed in the year 2020 and that the amendment seeking declaration was made within the period of limitation. Whether the relief of declaration is barred by limitation cannot be decided at this stage merely on the basis of the rival pleadings. The determination of such question would necessarily depend upon the facts and circumstances of the case, particularly as to when the cause of action for seeking declaration first arose and whether the amended relief relates back to the date of institution of the suit. These are matters requiring adjudication on the basis of evidence and applicable legal principles.

11. Since the issue relating to limitation goes to the root of the maintainability of the declaratory relief claimed by the plaintiff and since such a plea



has specifically been raised in the additional written statement, this Court is of the considered view that framing of an additional issue would facilitate complete and effective adjudication of the controversy between the parties. No prejudice would be caused to either side by framing such an issue, whereas failure to frame the issue may result in omission to adjudicate a material defence raised by the defendants. Accordingly, this Court finds that the petition deserves to be allowed and that an additional issue relating to limitation is required to be framed for trial.

Result:

12. *In the result, this petition is allowed.*

(i) In exercise of the powers conferred under Order XIV Rule 5(1) read with Section 151 of the Code of Civil Procedure, the following additional issue is framed: Whether the relief of declaration sought by the plaintiff is barred by limitation as alleged by the defendants?"

(ii) The said issue shall be tried along with the other issues already framed in the suit and shall be decided on the basis of the pleadings and evidence to be adduced by the parties.

(iii) Considering the facts and circumstances of the case, there shall be no order as to costs.

This order is dictated to the Typist, typed by her in computer, corrected by me and pronounced by me in the open court on this the 25th day of June 2026.

**District Munsif,
Udhagamandalam.**



Draft/Fair Order:

**I.A. No. 02/2026
in
O.S. No. 74/2020**

Dated: **25.06.2026.**

**District Munsif Court,
Udhagamandalam.**