

ORDER

1) The petitioner has filed this petition under Order VI, Rule 17 to amend the plaint as detailed in the petition.

2) **The brief averments of the petition are as follows:**

2.1) The petitioner is the plaintiff in the original suit. The petitioner filed the suit for the relief of partition. The petitioner filed a petition to abandon the 'B' schedule property and the same was allowed by this court in I.A.No.1/2023 dated 18.04.2024. The petitioner filed another petition for declaring the 7th defendant as major and to remove the 3rd defendant as a guardian of the 7th defendant and the same was allowed by this court in I.A.No.1/2024 dated 29.10.2024. Therefore this petition is filed by the petitioner to amend the plaint as detailed in the petition. Hence, this petition.

3) **The Brief averments of the counter filed by the 3rd respondent and the same was adopted by the respondents 2, 6 & 7 are as follows:**

3.1) This petition is not maintainable either in law or on facts. The suit is filed for partition as against the defendants is true. The averments mentioned in para No.3 and 4 of the petition are contrary to the truth and are unacceptable. There is no possibility to continue the suit after removing 'B' schedule property. The suit filed before Munsif Court, Aranthangi in respect of the 'B' schedule property for the relief of permanent injunction and it is not for the title over the 'B' schedule property.

The petitioner filed this petition with an intention to delaying the court time. Hence, prays for dismissal of the petition with costs.

4) The learned counsel for the respondents 4 and 5 made an endorsement that no objection on the part of D4 and D5.

5) **Point that arises for consideration in this Petition is that**

Whether this petition is to be allowed as prayed for?

6) **Point:** Heard both sides. Records perused.

7) The petitioner filed a petition to abandon the 'B' schedule property and the same was allowed by this court in I.A.No.1/2023 dated 18.04.2024. The petitioner filed another petition for declaring the 7th defendant as major and to remove the 3rd defendant as a guardian of the 7th defendant and the same was allowed by this court in I.A.No.1/2024 dated 29.10.2024. Therefore this petition is filed by the petitioner to amend the plaint as detailed in the petition.

8) The respondents contended that the petition is filed only to drag on the proceedings of the suit.

9) I have carefully considered the arguments advanced by either side and perused the records.

10) The petitioner already filed the petitions in I.A.No.1/2023 and I.A.No.1/2024 were allowed by this court. Now the petitioner filed this petition to amend the plaint. Further, the amendment prayed by the petitioner could not change the cause of action or character of the suit. It is only consequential amendments.

11) At this juncture, it is relevant to refer the decision reported in “ (2005) 4 MLJ 258 in a case of *Thiru Alankadu Immudi Ahora Dharma Sivachariar Aiyra Vaisya Madam, Nerinchipettai, Erode District Vs Udumalpet Samayapuram Aiyra Vaisya Sangam*”, wherein it was held as follows:

“ Civil Procedure Code (V of 1908), O.6 Rule 17 – Amendment of plaint – No change of cause of action – No introduction of new cause – The amendment ought to have been allowed – The trial court cannot at this stage give a finding on limitation.

When there is no change of cause of action and no introduction of a new case, the trial court ought to have allowed the application for amendment and also the parties to put-forth their contentions, with reference to the bar of limitation also, during the course of trial. In stead of doing so, the trial court had chosen to give a finding that since the case fell under Entry 58 of the Schedule to the Limitation Act, the application would be barred by limitation, which is wrong. Therefore, the order impugned is set aside. The trial court is directed to frame an issue with reference to the point of limitation also and go on with the trial, after giving necessary opportunity to the parties.

“ When there is no change of cause of action and no introduction of a new case, the trial court ought to have allowed the application for amendment.”

Further in the above Judgment, the Hon'ble High court could set forth some guidelines, while dealing with an application under Order 6 Rule 17 CPC seeking for amendment of the prayer. There are twelve guidelines were given. As per the above Judgment, if there is no new case introduced or new cause of action is set out, there is no impediment for allowing the amendment petition. Hence, this court is inclined to allow this petition. Thus, the point is answered accordingly.

12) In the result, this petition is allowed. No costs.

This Order is dictated to Stenographer Grade.III of this Court, directly typed by him in Computer, corrected and pronounced by me in open court, this the 05th day of December, 2025.

**Principal District Judge,
Pudukkottai.**

Both side Witnesses and Exhibits :- Nil.

**Principal District Judge,
Pudukkottai.**