

In the Court of District Munsif, Mudukulathur

Present : Ms.J.C.Aparna, B.A, L.L.B.,

District Munsif,

Mudukulathur.

Thursday the 12th day of February 2026

I.A.No.01/2025

in

O.S.No.45/2021

1. Rani
2. Annes Fathima
3. Mohamed Arabath
4. Hameetha Begam
5. Seenimumthaj Begam
6. Aamina Beevi
7. Pichaikani
8. Sahulhameed
9. Ajarudheen
10. Sashima Begam

..... Petitioners/Plaintiffs

/VS/

1. Seyed Sekana
2. Seyinsa Begam
3. Jeyinabegam
4. Katharammal
5. Nasrin Begam
6. Shekraja Usenkani

..... Respondents/Defendants

This petition came on 08.01.2026 before this court for final hearing in the presence of Thiru.G.Janakiraman Learned Counsel for the Petitioners/Plaintiffs, Thiru.M.Dharmar, Learned Counsel for the 1 to 4 Respondents/ 1 to 4 Defendants and 5,6 Respondents/ 5,6 Defendants set exparte and upon hearing both sides enquiry and upon perusing the material records and having stood over till this day for consideration, this court delivered the following:

ORDER

This petition has been filed under Order 6 Rule 17 and 18 of Civil Procedure Code to amend the plaint.

2. Brief averments of the Petitioners/Plaintiffs in brief:-

The petitioner is the 9th plaintiff in the main suit. He files this petition for himself and on behalf of the other petitioners/plaintiffs. The plaintiffs have filed the suit for the relief of declaration and consequential permanent injunction. After the filing of the suit, the defendants have dug a borewell in a small area of the suit property, the area is marked X on the Commissioner's plan. At that time, since the plaintiffs had gone out of town, the details of the borewell were unknown to the plaintiffs. Upon knowledge of the same, the defendants specifically stated that the borewell was not present in the suit property, but rather in Survey No. 307/3. However, during the site inspection by the Commissioner appointed by this court, it was found that the borewell marked as X was located in a small area of the suit property. Therefore, it is necessary to make appropriate amendments to remove the borewell. Multiplicity of proceedings can be avoided by allowing the present amendment petition and prays to allow the petition.

3. Brief averments of the 1 to 4 Respondents/ 1 to 4 Defendants in brief:

The 1 to 4 respondents/ 1 to 4 defendants deny the averments in the petition. It is stated that the defendants have filed the written statement stating that they have dug the borewell in the property in question and is enjoyment of the same for more than the statutory period. When the Commissioner first inspected the property in question, it was clearly revealed that the borewell was located within the property belonging to the 2nd defendant. After that, when the Commissioner inspected it for the second time, the Commissioner's report was

filed incorrectly since the 9th plaintiff deliberately identified the suit property incorrectly. The 9th plaintiff/petitioner has obtained a patta for a larger extent and has filed this suit with the intention of encroaching the properties of the defendants. The present petition is filed with the malicious intention of delaying the trial and the 1st respondent in the suit is a senior citizen above 90 years of age. Hence prays to dismiss the petition.

4. Point for consideration:-

Whether the petition be allowed and the relief be granted as prayed for?

No documents filed on either side. Heard both sides.

5. Answer to the Point:-

5.1. Heard both sides enquiry. Perused available records. The case of the petitioners/plaintiffs is that after filing of the suit, the respondents/defendants have encroached upon a small portion of the suit property and have dug a borewell. The area is marked as X in the commissioner's plan. Therefore it is necessary to amend the plaint to include a prayer for mandatory injunction to remove the said encroachment.

5.2. Whereas the respondents/defendants state that the said bore well has been dug way prior to the filing of the suit and the respondents/defendants are in enjoyment of the same beyond statutory period. It is stated that this present petition is filed only to prolong the proceedings.

5.3. On perusal of the report and plan filed by the commissioner it is seen that a portion of land has been marked as X and stated as encroached by the respondents/defendants. Whether the said borewell was dug before the filing of the suit or during the pendency of the litigation is a matter for trial and the commissioner's report and plan alone is not conclusive proof. The onus is still on the petitioners/plaintiffs to prove their case by way of oral and documentary evidence. Also it is well settled law that all amendments must be allowed as to

prevent multiple litigations and to arrive at a proper conclusion for the issue in hand. The proposed amendment will not change the nature of the suit. There is a triable issue at hand between the parties as to the borewell as the parties are in dispute as to whether the borewell in question is situated in their respective lands. Hence in the light of the said discussions, this petition is allowed and no order as to costs.

6. In the result, this petition is allowed. No order as to costs.

Directly typed by me in my official laptop and formatted by Steno Typist, corrected and pronounced by me in open court on this 12th day of February 2026.

**District Munsif,
Mudukulathur.**

Both sides witnesses and documents : Nil

**District Munsif,
Mudukulathur.**