

IN THE COURT OF DISTRICT MUNSIF, METTUR, SALEM DISTRICT

Present: **Thiru. M.Selvam, B.A., B.L.,**

District Munsif, Mettur

Monday, this the 10th day of August 2026

I.A.No. 10 of 2026

in

O.S. No. 75 of 2025

(CNR No. TNSA17-000084-2025)

1. Ayyanthurai
2. Kathalingam
3. Murugan
4. Marimuthu

...Petitioners/Plaintiffs

-Vs-

1. Venkatachalam
2. Ayyappan
3. Murugan
4. Sundari
5. Senthil
6. Jayavel
7. Rathinavel

...Respondents/Defendants

This petition is heard in the presence of Mr. A. Sureshbabu., B.A., B.L., the Learned counsel for the Petitioners/Plaintiffs and Thiru. A.M.C.Periyasamy., B.Sc., B.L., the Learned counsel for the Respondents 2 and 3/Defendants 2 and 3 and Mr. V. Vaithiyalingam., B.A., B.L., the Learned counsel for the Respondents 1, 4 to 7/Defendants 1, 4 to 7. Enquiry heard, written arguments perused and having stood over for my consideration till this day, this court delivered the following,

ORDER

Petition filed by the Petitioners/Plaintiffs under Order 6 Rule 17 of CPC to amend the plaint as set out in the petition.

1. Brief facts in the petition filed by the petitioners/plaintiffs is as follows:

1.1. The petitioners are the plaintiffs in the original suit and the same was filed for the relief of declaration and injunction and other relieves. The petitioners had also filed injunction application and commissioner application in I.A.No. 02 of 2025 and the respondents had also filed their counter and written statement. When the applications were posted for enquiry, in order to defeat and also with an intention not to get any interim order coupled with the commissioner application and further to restrict the commissioner to visit the suit property, the respondents had blocked the pathway with the help of big stones.

1.2. The petitioner had already won the case in O.S.No. 643 of 1990 and A.S.No. 22 of 2002 in respect of the same pathway road . A FIR was also filed in respect of the issue for blocking the suit pathway. The petitioners counsel had also filed an application in I.A.No. 05 of 2026 in I.A.No. 06 of 2026 considering the attitude in blockage of the pathway road with the help of big stones using JCB. While the matter was posted for arguments, in order to prolong the matter, the respondents had filed an application under Order 7 Rule 11 of CPC on the ground that the suit lacks cause of action more particularly as the petitioners sought prayer for 40 families to use the pathway road and for the purpose that the petitioners had not complied Order 1 Rule 8 of CPC read with Order 7 Rule 4 of CPC.

1.3. In order to expedite the trial and also to remove the encroachment, the petitioners had decided to delete the prayer for 40 families along with the main plaintiffs and in the main plaint. Since, the amendment is a pre-trial amendment, it can be allowed in favour of the petitioners. There is no change in cause of action also.

2. Brief facts in the counter filed by the respondents 2 and 3/defendants 2 and 3 and adopted by other respondents is as follows :

2.1. The subject matter of the suit is a cart track alleging that the cart runs in these respondents patta lands and the same was being used by the petitioners/plaintiffs and 40 families therein. The body of the plaint, cause of action and prayer clearly shows that the suit is filed on same and common interest. But the petitioners/plaintiffs had not at all disclosed who were the said 40 families and what is their names. The petitioners/plaintiffs had also not complied the mandatory procedure under Order 1 Rule 8 of CPC. Hence, these respondents had filed an application to reject the plaint under Order 7 Rule 11 of CPC in I.A.No. 07 of 2026. Therefore, this petition is liable to be rejected.

3. No oral and documentary evidence on either side.

4. Submissions :

(I) The learned counsel for the petitioners/plaintiffs had submitted that the suit is not filed in a representative capacity. Though there is specific line and words as 40 families in the plaint, the suit is not of a representative nature. Since, the respondents are prolonging the case in this aspect, now the petitioners/plaintiffs had come forward to even delete the said line and words of 40 families in order to speed up the trial. The amendment is also a pre-trial

amendment, which has to be construed liberally. The learned counsel had also relied on certain judgments in this aspect, which was filed along with his written arguments.

(ii) Per Contra, the learned counsel for the respondents 2 and 3/defendants 2 and 3 had submitted that the suit itself filed by the petitioners/plaintiff on same and common interest of 40 families and hence, it is mandatory to obtain leave under Order 1 Rule 8 of CPC. But the petitioners/plaintiffs had not obtained any such leave. In these circumstances, these respondents had filed an application to reject the plaint and the same was pending before this court. At this stage, the petitioners/plaintiffs had come forward with this petition in order to defeat the rejection petition. The body of the plaint, cause of action and plaint prayer, plaint schedule clearly shows that the suit is filed only in an representative capacity. The suit, which is filed as a representative capacity cannot be changed by way of an amendment into an ordinary suit. In this regard, the learned counsel for these respondents 2 and 3 had relied certain judgments, which was filed along with his written arguments. The learned counsel for the respondents 1, 4 to 7 had also conceded with the arguments of the learned counsel for the respondents 2 and 3.

5. Point For Consideration:-

(i) Whether the amendment sought for in the petition has to be allowed or not ?

6. Discussions:

6.1. Both side rival submission heard and perused the pleadings and materials on record. The original suit is filed by the petitioners/plaintiffs for the relief of declaration, to declare that as per the judgment passed in O.S.No. 649 of

1990 on the file of this court and A.S.No. 22 of 2002 on the file of the Hon'ble Sub Court, Mettur, the petitioners/plaintiffs and 40 families therein are entitled to use the suit pathway and cart track and for the consequential relief of permanent injunction to restrain the defendants and their men from causing any disturbance in using the said suit cart track.

6.2. It is the case of the petitioners/plaintiffs as per the plaint pleadings that the suit cart track comprised in Survey no. 562/5B and 562/9A were being used by the plaintiffs and the 40 families around therein for the past 9 successive generations and the father of the respondents 2 and 3/defendants 2 and 3 had also filed a suit in O.S.No. 643 of 1990 as against the fathers of the plaintiffs, in which a judgment and decree was passed on 24.10.2000 by holding that the defendants therein in the suit and the villagers are entitled to use the suit cart track. The appeal preferred by the father of the respondents 2 and 3/defendants 2 and 3 in A.S.No. 22 of 2022 on the file of Hon'ble Sub Court, Mettur was also dismissed. But the respondents/defendants were now claiming independent right over the suit cart track and on 18.04.2025, they along with their henchmen had restrained the usage of the suit cart track by the petitioners/plaintiffs and the 40 families therein. Hence, this suit.

6.3. Admittedly, in the cause title of the suit, the plaintiffs/plaintiffs had not at all made any assertion as such they were filing the suit in a representative capacity for the alleged 40 families around the suit property. Even in the body of the plaint, except the averments that they themselves and the 40 families around therein were using the suit cart track and the alleged restraint made by the defendants as against the plaintiffs and the 40 families, there was no such pleadings as they were filing the suit on behalf of the alleged 40 families in a representative capacity or that the suit is filed in respect of any common interest

of the general public in that locality. The only assertion made therein is in the relief column seeking the relief of declaration for usage of the suit cart track by both the plaintiffs themselves and the 40 families around therein.

6.4. At this juncture, the petitioners/plaintiffs had come forward with this petition to delete the said words of 40 families in the plaint pleadings and in the relief column. This court had gone through the judgment and decree dated 24.10.2000 in O.S.No. 643 of 1990 on the file of this court. On perusal of the same, it shows that the right to use the cart track therein was being granted to the fathers of the petitioners/plaintiffs and the villagers in that locality. Therefore, it is clear that the fathers of the petitioners/plaintiffs were also granted with an independent right to use the cart track in dispute in the above suit.

6.5. Though in the relief of column, the relief of declaration is sought for in favour of the petitioners/plaintiffs and 40 families around the suit property, the suit is not at all framed as such in a manner of representative capacity or for the common interest on behalf of the said 40 families also. This court had also gone through the proposed amendments described in the petition. The said proposed amendment is only with regard to the deletion of the words 40 families described in the plaint pleadings, plaint schedule and in the relief column. The contention of the petitioners/plaintiffs that the said amendments is sought for to expedite the trial is also having considerable force. Moreover, the proposed amendment would not alter or change the nature or structure of the suit or introduce any new cause of action or any new claim, which is inconsistent with the original plaint. Further, the stage of the case is only for framing issues. Therefore, it is clear that the proposed amendment is also sought for in the pre-trial stage.

6.6. With regard to the pre-trial amendment, the learned counsel for the petitioners/plaintiffs had relied on the observation of **Our Hon'ble Supreme Court** in the case of **Life Insurance Corporation of India vs Sanjeev Builders Pvt Ltd and another** in **C.A.No. 5909 of 2022**, wherein it was observed as follows,

“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”

Admittedly, in this present case on hand, the trial had not yet commenced. The respondents/defendants would also no way be prejudiced if the proposed amendment is allowed. They had also not shown any thing to the contrary. Moreover, the petition filed by the respondents 2 and 3/defendants to reject the plaint in the present suit in I.A.No. 07 of 2025 was also tried along with this petition and the same was also dismissed today.

6.7. The learned counsel for the respondents 2 and 3/defendants 2 and 3 had relied the case in **Jerome and 31 others vs P. Vijayakumar and 31 others** and the case in **Victoria Edward Hall through its Secretary and others vs P.Vijakumar and others** of **Our Hon'ble Madras High Court** and had submitted that an representative suit cannot be changed into an ordinary suit by filing an application under Order 6 Rule 17 of CPC. This court had gone through the said judgments. The said suit itself is filed by the plaintiffs therein in an representative capacity and also filed an application to grant leave under Order 1 Rule 8 of CPC

and then had filed an application to convert the same in to an ordinary suit. In the said circumstances, it was specifically held by Our Hon'ble High Court that the plaintiffs should not be allowed simply to convert the representative suit by getting the plaint amended without even resorting to the proper procedure contemplated under law. But the present suit in hand is not filed by the petitioners/plaintiffs in an representative capacity nor filed any application seeking leave under Order 1 Rule 8 of CPC. Therefore, the said judgment is not applicable to the present case on hand. The other judgments relied by the learned counsel for the respondents 2 and 3/defendants 2 and 3 is with regard to the amendments that would change the nature and structure of the suit. In the above discussion made supra, this court had already held that the proposed amendments herein would not alter or change the nature or structure of the suit or introduce any new cause of action. Such being the position, the said judgments would also have no applicability to the present case on hand. Therefore, from the overhaul discussion and in the interest of justice and in order to avoid multiplicity of proceedings, this court is inclined to allow this petition.

In the result, this petition is allowed. Considering the facts and circumstance of this case, there is no order as to cost.

This order is typed by me in my official laptop, corrected and pronounced by me in open court on this 10th day of August 2026.

**District Munsif,
Mettur**

Both side witnesses and exhibits :NIL

**District Munsif,
Mettur**

