

IN THE COURT OF DISTRICT MUNSIF COURT, METTUR, SALEM DISTRICTPresent: **Thiru. M.Selvam, B.A., B.L.,**

District Munsif, Mettur

Saturday, this the 09th day of August 2025**I.A.No. 04 of 2023****in****O.S. No. 56 of 2020**

(CNR. No. TNSA17-000072-2020)

Raji @ Annamalai

... Petitioner/Plaintiff

/Versus/

1. Arunachalam

2. Thangavel

3. Kunjupaiyan

4. Marimuthu

... Respondents/Defendants

This petition came up before me for final disposal in the presence of Mr. I.K. Sadhasivam., M.Com., M.L., the learned counsel for the petitioner/plaintiff and Mr. P. Siddhan., B.A., B.L., the learned counsel for the respondents/defendants. Enquiry heard and having stood over for my consideration till this day, this court passed the following:-

ORDER

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

1. Brief averments in the petition is as follows:

1.1. The petitioner is the plaintiff in the original suit and the same was filed for the relief of declaration and permanent injunction. The suit was posted on 07.08.2023 in list. While, on 06.08.2023 preparing for trial, on verification of the written statement, the petitioner came to know about the invalid sale deed executed by the mother of the petitioner to the defendant's mother on 14.05.1978. The properties incorporated in the alleged sale deed belongs to the petitioner. The

properties therein was acquired by the petitioner by way of an settlement deed dated 19.09.1976 executed by his father namely Arumugham, when he was minor. The mother of the petitioner is only appointed as a guardian and she is only a custodian of the properties to maintain it and she is not entitled to alienate or encumber the properties till the petition attains majority and the same was clearly mentioned in the settlement deed. But the petitioner's mother had created an invalid sale deed in favour of the defendant's mother, against the interest of the minor and against the terms and condition of the settlement. At the time of sale deed, the petitioner is minor and hence, he ignore the same. Till her time, the mother of the petitioner had not informed about the sale deed. The petitioner had also came to know about the alleged sale deed only on perusal of the written statement on 06.08.2023. Hence, this petition is filed to amend the plaint for the relief to declare the sale deed dated 14.05.1978 as null and void.

2. Brief averments in the counter filed by the 1st respondent and adopted by the other respondents is as follows:

2.1. The respondents denied the averments made in the petition. The mother of the petitioner had executed the sale deed only for the benefit of the minor and in the capacity as guardian by receiving valuable consideration. The petitioner cannot seek the relief as against the sale deed after a period of 45 years. As per the law of limitation, the petitioner can seek the relief of declaration of the sale deed as null and void within 3 years from the date of attaining majority. While being so, the period of limitation was expired in the year 1991, as such the petitioner had attained majority in the year 1998. Further, the suit is filed when the mother of the petitioner is alive and hence, this suit is barred for non-joinder of necessary parties. Therefore, this petition is liable to be dismissed.

3. No oral evidence on either side. Ex.P1 to Ex.P7 were marked on the side of the petitioner on 13.11.2024. Subsequent to the same, another document was marked on the side of the petitioner on 22.07.2025 as Ex.P1, which was not marked

with consecutive numerals as Ex.P8. Hence, the same was rectified today and the exhibit marked on 22.07.2025 on the side of the petitioner is now recorded with the numeral as Ex.P8. On the other hand, Ex.R1 to Ex.R4 marked on the side of the respondents.

4. Points for Consideration:

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

5. Both side rival submissions heard with regard to their pleadings and perused the materials on record. The original suit is filed by the petitioner/plaintiff as against the respondents/defendants for the relief of declaration of title in respect of the suit properties and consequential relief of permanent injunction. The stage of the case is for trial. At this juncture, the petitioner/plaintiff had come forward with this petition to include a prayer seeking the relief of declaration, to declare the sale deed dated 14.05.1978 executed by the mother of the petitioner in favour of the respondents mother as null and void.

6. It is the contention of the petitioner that he had came to know about the alleged sale deed only on 06.08.2023, on perusal of the written statement filed by the respondents for the preparation for trial. On perusal of the case records, it shows that the respondents had filed their written statement on 22.02.2021. In the written statement, it was averred by the respondents about the sale deed dated 14.05.1978 executed by the mother of the petitioner in favour of the respondents mother in respect of a portion in the suit properties to an extent of 0.58 cents. This petition seeking the amendment to declare the said sale deed as null and void was filed by the petitioner on 07.08.2023. Therefore, it is clear that this petition is filed to amend the plaint with the relief of declaring the above said sale deed as null and void was filed within 3 years from the date of filing the written statement with the above averments.

7. The specific contention of the respondents is that the as per the law of limitation, the petitioner can seek the relief of declaration of the sale deed as null and void within 3 years from the date of attaining majority. It is no doubt that as per Article 60 of the Limitation Act, the period of limitation for filing a suit by a minor to set aside the transfer made by his guardian is three years from the date of attaining the majority. But in this case, the petitioner is claiming that the date of the knowledge is only on 06.08.2023 when he had perused the written statement filed by the respondents. As already discussed supra, even from the date of filing of the written statement, if the limitation is taken into consideration, it cannot be held that the relief is barred by limitation. The respondents had also not shown any thing to the contrary. Such being the position, the limitation being the mixed question of fact and law has to be decided based on the pleadings put forth by either side and framing a definite issue in this regard and on considering the evidence, if any, let in by the parties.

8. The defence of the respondents mainly rests upon the alleged sale deed dated 14.05.1978 executed by the mother of the petitioner in favour of the respondents mother in respect of a portion in the suit properties to an extent of 0.58 cents. The petitioner had filed the suit for the relief of declaration of title in respect of the suit properties. Such being the position, the amendment would not change the nature of the relief claimed or the basic structure of the suit. Further, this court forms opinion that the amendment sought for in the suit would be helpful for the fair determination of the real question in dispute between the parties. The respondents would also no way prejudiced, if this petition is allowed.

9. The learned counsel for the petitioner relied on the citation of **Our Hon'ble Madras High Court** in the case of **Chitra and three others vs Elasi Ammal and eighteen others** reported in **2018 (2) CTC 52**, wherein their Lordships had observed that the petitioners there in had filed the amendment petition seeking the relief of declaration of the partition deed dated 19.01.1996 within three years from

the date of filing the written statement by the respondents and within the three years from the date of their knowledge and hence, the amendment is not barred by the law of limitation. The learned counsel for the petitioner further relied on the citation of **Our Hon'ble Madras High Court** in the case of **C.V. Rambabu vs V.C. Jayanthi** reported in **2009 (2) CTC 387**, wherein it was observed by their Lordships the amendments which are necessary for the purpose of determining the real question in controversy should be allowed by the courts.

10. The citations relied by the learned counsel for the petitioner would squarely applicable to the facts of the present case for the reason already discussed supra. In the context of the respondents contention with regard to the limitation, this court wants to rely on the judgment of **Our Hon'ble Supreme Court** in the case of **Life Insurance Corporation Of India vs Sanjeev Builders Private Limited and another** in **Civil Appeal No. 5909 of 2022**, in which their Lordship had observed as follows,

"It is well settled that the court must be extremely liberal in granting the prayer for amendment, if the court is of the view that if such amendment is not allowed, a party, who has prayed for such an amendment, shall suffer irreparable loss and injury. It is also equally well settled that there is no absolute rule that in every case where a relief is barred because of limitation, amendment should not be allowed. It is always open to the court to allow an amendment if it is of the view that allowing of an amendment shall really sub-serve the ultimate cause of justice and avoid further litigation"

Therefore, from the overhaul discussion and in the interest of justice and to avoid the 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 costs.

This order is typed by me in my official laptop, corrected and pronounced by me in the open court on this 09th day of August 2025.

**Sd./-Thiru.M.Selvam,
District Munsif,
Mettur.**

Petitioner side witnesses: Nil

Petitioner side exhibits:

Ex.P1	17.12.1973	Partition deed	Certified copy
Ex.P2	19.09.1976	Settlement deed in favour of the plaintiff	Certified copy
Ex.P3	16.06.2020	Computer Patta No.948	Online copy
Ex.P4	16.06.2020	Computer Patta No.1113	Online copy
Ex.P5	16.06.2020	Computer Patta No.947	Online copy
Ex.P6	22.06.2020	Guideline value & property valuation	Online copy
Ex.P7	14.05.1978	Sale deed in favour of the Pachiammal	Certified copy
Ex.P8	05.09.2020	Death certificate	Photo copy

Respondents side exhibits: Nil

Respondents side exhibits:

Ex.R1	17.12.1973	Partition deed	Certified copy
Ex.R2	14.05.1978	Sale deed in favour of the Pachiammal	Certified copy
Ex.R3	10.03.2007	VAO Certificate	Photo copy
Ex.R4	---	Property tax receipts (9 Nos.)	Original

**Sd./-Thiru.M.Selvam,
District Munsif,
Mettur.**