

**IN THE COURT OF DISTRICT MUNSIF, METTUR, SALEM DISTRICT**

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

District Munsif, Mettur

Wednesday, this the 04<sup>th</sup> day of February 2026

**I.A.No. 05 of 2024**

**in**

**O.S. No. 138 of 2022**

**(CNR.No.TNSA17-000206-2022)**

P. Rajendran

... Petitioner/Plaintiff

/Versus/

1. P. Goundappan

2. G. Umasiva Nagarajan

... Respondents/Defendants

This petition came up before me for final disposal in the presence of Mrs. K. Sathiyapriya., B.A., B.L., the learned counsel for the petitioner/plaintiff and of Mr. I.K. Sadhasivam., M.Com., M.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 permanent injunction. It has been necessary to make certain corrections in the plaint schedule of property. Hence, this petition is filed by the petitioner to carry out the said amendment. The amendments would not alter the nature of the case.

**2. Brief averments in the counter filed by the 1<sup>st</sup> respondent and adopted by the 2<sup>nd</sup> respondent is as follows:**

2.1. The respondents denied the averments made by the petitioner in his petition. The petitioner had not at all stated why the said amendment should be made and on what basis the amendment was sought for. The averments clearly shows that the petitioner had filed the suit with wrong schedule of property. The petitioner had averred in the plaint that the suit property is shown as in the partition suit. But now the petitioner, who wants to amend the suit property had not at all pleaded, on basis of what documents, he wants to amend the same.

2.2. The suit will be proceeded on the basis of the suit property and if it is altered, then the nature of the suit itself would be altered. When the suit is posted for trial in list, the petitioner had obtained adjournment by filing an affidavit stating that he was in need of certain important documents and hence, he could not able to commence the trial and the case was posted on 14.10.2024. But the petitioner on that day had come forward with this petition. The petitioner has no prima facie case. Hence, this petition is filed to protract the suit proceedings and therefore, this petition is liable to be dismissed.

3. No oral and documentary evidence on either side.

**4. Points for Consideration:**

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

**5. Submissions:**

5.1 The learned counsel for the petitioner had submitted that the partition deed itself shows that the petitioner herein is also having right in the 0.05 cent pathway. But the petitioner had incorporated the schedule of property in the plaint as it is in the partition deed. Now the petitioner wants to amend the plaint schedule,

that too, in respect of the 0.05 cents of pathway only with regard to his right should not be infringed. Hence, this petition has to be allowed.

5.2. Per Contra, the learned counsel for the respondents had submitted that the petitioner herein had not at all stated any reason, why the said amendment has to be carried out in the plaint schedule or on what basis the proposed amendment is sought for. There is no pleading to the effect why the amendment has to be made. Since, no reason has been averred for the proposed amendment, the said petition has to be dismissed.

## **6. Discussion :**

6.1. Both side rival submissions heard and perused the pleadings and materials on record. The original suit is filed by the petitioner/plaintiff for the relief of permanent injunction restraining the respondents/defendants and their men from in any manner disturbing the petitioner's possession and enjoyment in the suit property either by committing illegal trespass into it or by any other means.

6.2. It is the case of the petitioner/plaintiff as per the plaint averments that the suit property belongs to the father of the petitioner and the 1<sup>st</sup> respondent namely Ponnusamy and the petitioner, 1<sup>st</sup> respondent and other brother and sister had partitioned the property vide a partition deed dated 08.11.2010 in document no. 2157/2010 and the suit property herein was allotted to the petitioner and he was being in possession of the same on and from the said partition. The revenue records were also mutated in his name. The petitioner has well developed the suit property by his hard work and on seeing the same, his brother, the 1<sup>st</sup> respondent and his son, the 2<sup>nd</sup> respondent had insisted to sell the same for low price, which was refused by the petitioner. Then the respondents had tried to cause hindrance to the petitioner's possession in the suit property and also tried to encroach upon its major portion. Like wise, on 05.05.2022, the respondents and their men had tried to

commit trespass, which was thwarted by the petitioner with the help of neighbours. But while leaving, they threatened that they will come with huge force to achieve their goal and hence, this suit.

6.3. The suit property in the plaint schedule consists of the 'C' schedule property, which is allotted to the petitioner in the said partition deed dated 08.11.2010 along with the common property described therein for the sharers, who were allotted with the 'A', 'B' and 'C' schedule of property, which is a pathway to an extent of 0.05 cents in Survey no. 207/8. The clause there exist is that the sharers, who were allotted with the 'A', 'B' and 'C' schedule of property should not obstruct the each others usage of the said pathway for ingress and egress.

6.4. The stage of the case is for trial. At this juncture, this petition is filed by the petitioner to amend the plaint schedule in respect of the said pathway as such the respondents/defendants should not obstruct the petitioners right of usage of the said pathway for his ingress and egress.

6.5. As discussed as supra, the petitioner/plaintiff had described the plaint schedule jointly with the 'C' schedule of property allotted to him in the partition deed along with the common property described therein as pathway. Admittedly, the petitioner herein had not at all pleaded any averments as about the alleged pathway in his plaint pleadings, though it was included in the suit property along with the property allotted to him vide the partition deed dated 08.11.2010. The petitioner herein had also not at all attempted to describe the said pathway as a separate plaint schedule of property or seek any relief in respect of the same, either at the time of filing the suit or at the time of filing this amendment petition, which was especially filed to amend the plaint schedule in respect of the said pathway.

6.5. Moreover, in the plaint pleadings, there was no averments as such the respondents/defendants had disturbed or obstructed the petitioner's usage of the said pathway. The plaint pleadings only categories the alleged trespass tried to be committed by the respondents in the petitioner's property. The petitioner had also not at all stated any reason in his affidavit, why the proposed amendments is sought for, that too, after a period of nearly 4 years, in respect of the pathway, of which there is no pleadings at all in his plaint or any claim in this regard. Therefore, from the overhaul discussion, this court comes to the conclusion that the proposed amendment sought for by the petitioner in this petition cannot be allowed and the same has to be rejected.

**In the result, this petition is dismissed. Considering the facts and circumstance of this case, there is no orders as to cost.**

This order is typed by me in my official laptop, corrected and pronounced by me in the open court on this 04<sup>th</sup> day of February 2026.

**District Munsif,  
Mettur.**

**Both side witnesses and exhibits : Nil**

**District Munsif,  
Mettur.**