

IN THE COURT OF THE FIRST ADDITIONAL DISTRICT JUDGE,
TIRUNELVELI.

PRESENT: Thiru. D. SELVAM, M.L.
1st Additional District Judge,
Tirunelveli.

Friday, the 14th day of August 2026

I.A. No. 06/2026 in O.S. No. 120/2020

Ponnammal through her power agent
Mrs. K. Jeyalakshmi

... Petitioner/Plaintiff

// Versus //

1. M. Durai
2. Chinnathambi
3. Sappani
4. Ooikattan (Died)
5. Berkmans
6. Jeya Mariyamma
7. James Vivek

... Respondents/Defendants

This petition came up before this court on 28.07.2026 for a final hearing in the presence of Thiru. K. Sankararaman, Advocate for the Petitioner, and Thiru. S. B. Kamalanathan, Advocate for the 1, 2, 5, 6, 7 Respondents and 3rd Respondent called absent, set exparte and 4th Respondent died, and upon hearing both sides' arguments and upon perusing the records and having stood over till this date for consideration, this court delivers the following ...

ORDER

1. This petition has been filed under Order-6 Rule-17 & 18 and S. 151 of the C.P.C to amend the plaint, the details set out in the petition.

2. The brief averments in the petition are as follows:-

The petitioner is the deponent and the power agent of the plaintiff. The suit is filed for a declaration, an injunction, and other relief. The petitioner purchased the plaint schedule property through the Registered sale deed, dated 09.09.1984, executed by one P. Thiruvankida Reddy for valid sale consideration. The Thiruvankida Reddy purchased the plaint schedule property from one Sudaliammal through a Registered sale deed dated 03.06.1968. After the purchase, the petitioner got the patta no. 2125 relating to the schedule property and also paying kist for the schedule property. The suit is posted for trial. On pendency of the suit, the plaintiff took an Encumbrance Certificate for the schedule property after filing the commissioner report and found that the proposed respondents 5 to 7/proposed defendants 5 to 7 have fraudulently executed registered document nos. 2410/2011, 7930/2011 and 9297/2011 about the plaint schedule properties. The 5 to 7 defendants encroached the suit schedule property in survey no. 278/2A. Now, the suit property is situated at Ward BM, Block 23, T.S. No. 114/1. Hence, the petitioners filed the application to amend the plaint.

3. The brief averments of the counter filed by the 7th respondents and adopted by other respondents are as follows:-

The petition is false, frivolous, and vexatious; the respondent denied the allegations contained in the petition except for the admitted facts. The proposed amendment will change the character and scope of the suit. The entire thing is going to be amended if the application is allowed. Further the prayer of amendment is

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barred by limitation. Now the petitioner wants to change entire case. The proposed amendment is against the original plaint. The 5 to 7 respondents had the possession and enjoyment of plaint schedule property from the year 2011 onwards. So, the petition is not maintainable. The petitioner filed this petition with a malicious intention to drag on the proceedings. Hence, the petition may be dismissed with costs.

4. The Point for determination in the petition is:

Whether the petition can be allowed?

5. During the enquiry, no oral and documentary evidence was adduced on both sides.

6. Answer to the Point: -

6.1. Heard both sides. This Court carefully perused the affidavit, counter, and case records.

6.2. On perusal of the records, the suit is filed for the relief of declaration and injunction and other reliefs. The suit is pending for trial. At this stage, the petitioners have filed this petition. Per contra, the respondent has opposed the petition for the reason that the proposed amendment will change the character and scope of the suit. Further, the proposed amendment is barred by limitation.

6.3. This court considered revival submissions and case records. The petitioner filed the suit in the year 2012 before the District Munsif Court, Tirunelveli for injunction. Then, the petitioner did not prosecute the suit and amended the plaint for

the relief of declaration of title and injunction and added the respondents, with the knowledge that they created the documents in the year 2011. So, the petitioner seeking the amendment for recovery of possession after 14 years is totally time-barred. Pending the suit, the petitioner has not been vigilant in prosecuting the case and was not aware of the nature of the schedule property. Since the petitioner has not aware the correct survey number of the suit property. So. the petitioner came to know of the encroachment through the commissioner report, which is totally unsustainable. The commissioner report was only to help the court, not to collect the evidence for the petitioner. This court found that the petition-in-amendment is time-barred since the 5 to 7 respondents created the documents before filing the suit in the year 2011, and constructed the building. In these circumstances, this court would not like to permit the petitioners to amend the plaint is barred by limitation by the interest of justice.

7. In the result, this petition is dismissed. No costs.

This order is directly dictated to the steno-typist, typed on a computer, and corrected and pronounced by me in open court on this, the 14th day of August 2026.

1st Additional District Judge,
Tirunelveli.

The petitioners' side witnesses and documents: Nil

The respondent's side witnesses and documents: Nil

1st Additional District Judge,
Tirunelveli.

I Additional District Court,
Tirunelveli

DRAFT / FAIR ORDER

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OS No.102/2020

Dated: 14.08.2026