

IN THE COURT OF THE DISTRICT MUNSIF, VANIYAMBADI

**Present: Thiru V.ESHWAR, B.E.,LL.B.,
DISTRICT MUNSIF, VANIYAMBADI**

Dated this the 28th day of July, 2026

(2057 திருவள்ளூர் ஆண்டு, ஸ்ரீ பராபவ வருடம் , ஆடி திங்கள் 12 ம் நாள்)

I.A. No. 05 of 2025

in

O.S.No. 132 of 2022

Sumathi @ Sumitha

...Petitioner

//Vs//

1. On behalf of Village Panchayat, its president,
Kalanthra Village.
2. Block Development Officer, Jolarpettai
3. Tahsildar, Vaniyambadi
4. District Collector, Tirupattur

...Respondents

This petition coming on 28.07.2026 for final orders before me in the presence of learned counsel Mr. **A.C.Devakumar** for the petitioner and learned counsel Mr. **A.Aravindraaj (Govt Pleader)** for the Respondents upon perusing the petition, Counter and other material records in this case, this Court doth pass the following:

ORDER

(Petition filed U/O.6 R.17 of CPC)

The petitioner, who is the plaintiff in the main suit, has brought this interlocutory application under Order VI Rule 17 read with Section 151 of the Code of Civil Procedure, 1908, seeking liberty to amend the plaint by adding a

prayer for mandatory injunction directing the respondents to demolish and remove the constructions put up over the suit schedule properties.

GIST OF THE PETITION:

2. The case of the petitioner is that he instituted the main suit seeking a decree of bare permanent injunction to protect his peaceful possession and enjoyment of the suit properties against the respondents. During the pendency of the suit, an Advocate Commissioner was appointed in I.A. No. 4 of 2022, who inspected the spot and submitted a detailed report and sketch. In the said report, the learned Commissioner recorded the physical features of the property as they existed at the time of inspection, noting that 17 iron pillars had been set up and foundation footings laid over Item No. 2 of the suit property. The Commissioner also noted that construction work was actively going on when he inspected the site.

3. The petitioner further states that although the respondents ceased construction activities for a brief period following the Commissioner's visit, they subsequently completed the building work while the suit remained pending. It was only when the petitioner met his legal counsel recently to discuss the progress of the suit that he was advised regarding the legal necessity of seeking a mandatory injunction to pull down the newly erected structure. He asserts that the present application is bona fide, necessary to address developments occurring during the suit's pendency, and essential for a comprehensive resolution of the real controversy between the parties.

GIST OF THE COUNTER

4. The respondents have filed a detailed counter resisting the application on multiple grounds. They contend that the application is false, legally unsustainable, and an abuse of the court process. The respondents submit that the suit was originally instituted to obstruct the lawful construction of a public Village Panchayat office on Government Poramboke land.

5. The respondents highlight that the Advocate Commissioner's report in I.A. No. 4 of 2022 itself clarifies that the newly constructed building stands on Government Kallanguthu Poramboke land in Survey No. 292, situated to the north of the tar road. Survey No. 292 was subdivided into Survey Nos. 292/1 and 292/2, and an extent of 0.04 cents in Survey No. 292/2 stands duly registered in the revenue records in the name of the Block Development Officer, Alangayam. They state that the Panchayat office building was constructed and inaugurated two years ago by the Hon'ble Chief Minister of Tamil Nadu via video conferencing and is currently fully operational and serving the public.

6. Regarding Item No. 1, the respondents submit that the petitioner has no valid title or possession. They point out that the petitioner relies on a Settlement Deed dated 07.06.1999 executed by his mother, but subsequently set up another Settlement Deed dated 06.03.2019 executed by the same mother in favour of the petitioner and one Manikandan after earlier litigation in O.S. No. 53 of 1995 concluded.

7. The respondents contend that without revoking the earlier deed, the

second deed carries no legal force. They argue that permitting an amendment to incorporate a mandatory injunction against a fully constructed public building on Government land, without a prayer for declaration of title, is wholly impermissible in law.

POINT FOR DETERMINATION

8. The following point arises for determination in this interlocutory application: *“Whether the petitioner is entitled to amend the plaint under Order VI Rule 17 of the Code of Civil Procedure, 1908, to incorporate a prayer for mandatory injunction for removal of constructions erected during the pendency of the suit, or whether the proposed amendment alters the fundamental character of the suit and causes irretrievable prejudice to the respondents?”*

EVIDENCE ADDUCED

9. No evidence was adduced in this application on both sides.

ARGUMENTS OF THE PARTIES

10. The learned counsel for the petitioner argued that Order VI Rule 17 of the Code of Civil Procedure confers wide discretionary powers on the Court to allow amendments at any stage of the proceedings to determine the real questions in controversy. It was submitted that the suit was originally filed for permanent injunction when there was an apprehension of interference. However, as established by the Advocate Commissioner's report, structural work was commenced and subsequently completed by the respondents during the pendency of the suit. Counsel contended that when a plaintiff is dispossessed or

illegal structures are put up pendente lite, the proper remedy is to amend the plaint by adding a prayer for mandatory injunction or recovery of possession, thereby avoiding multiplicity of proceedings.

11. The learned counsel for the respondents argued that the application is highly belated and lacks bona fides. It was submitted that Survey No. 292/2 is Government Kallanguthu Poramboke land vested with the Alangayam Block Development Office, where a public Panchayat Office was constructed and inaugurated two years ago. Counsel urged that the petitioner has not produced a single revenue document to establish title over Survey No. 292/2. Placing reliance on settled principles of law, counsel argued that where a serious cloud is cast on the plaintiff's title over public property, a simple suit for mandatory injunction without seeking a declaration of title is legally unmaintainable. He urged that granting leave to amend at this stage would cause serious prejudice to public interest.

DISCUSSION AND REASONS FOR DECISION

12. This Court has given its earnest consideration to the pleadings, the court records, and the rival submissions advanced by both counsel. The fundamental issue before this Court is whether the petitioner should be granted leave to amend his plaint to include a prayer for mandatory injunction based on structural work completed during the pendency of the suit.

13. The law governing amendment of pleadings under Order VI Rule 17 of the Code of Civil Procedure, 1908, rests on well-established principles. The

provision grants broad discretion to the Court to allow either party to alter or amend their pleadings at any stage on such terms as may be just. The governing mandate of the rule is that all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties. The object of the rule is to prevent multiplicity of litigation and ensure that the complete dispute between parties is adjudicated in a single proceeding, provided the core cause of action is not substituted and no irretrievable prejudice is caused to the opposing party.

14. In the present case, the suit was originally instituted for a bare permanent injunction to restrain the respondents from interfering with the petitioner's peaceful possession of Item Nos. 1 and 2 of the suit properties. During the initial stages of the suit, an Advocate Commissioner was appointed in I.A. No. 4 of 2022. The Commissioner inspected the spot and recorded in his report: "17 இரும்பு கம்பிகள் அமைத்து கடகால் போடப்பட்டு பார்வையிட்டு அளவீடு செய்யும் சமயத்தில் கட்டிட வேலை நடைபெற்றுக்கொண்டிருந்தது."

15. This observation in the Commissioner's report substantiates the petitioner's assertion that construction activities were actively underway around the time the suit was instituted. The petitioner states that the respondents subsequently completed the building work during the pendency of the suit, which necessitated the present application for mandatory injunction to remove

the constructions.

16. The Supreme Court of India in *Sampath Kumar v. Ayyakannu* ((2002) 7 SCC 559) dealt with an identical scenario where structural changes or dispossession occurred during the pendency of a bare injunction suit. The Hon'ble Apex Court held that where events take place pendente lite, converting a suit for bare injunction into one for recovery of possession or mandatory injunction does not alter the basic structure of the suit. The Supreme Court observed that such an amendment merely seeks an appropriate consequential relief flowing from events that transpired after the filing of the suit, thereby avoiding driving the plaintiff to a fresh lawsuit.

17. Furthermore, the proviso to Order VI Rule 17 CPC imposes a restriction against allowing amendments after trial has commenced, unless the Court concludes that the party could not have raised the matter despite exercising due diligence. In the present case, trial in the main suit has not yet commenced. The suit remains at the pre-trial stage, where courts traditionally adopt a more liberal approach toward amendment applications.

18. The respondents have raised serious objections regarding the maintainability of the proposed relief, contending that Survey No. 292/2 is Government Kallanguthu Poramboke land. While the defense raised by the respondents regarding title and the public character of the property is substantial, it is a settled principle of law that at the stage of considering an application under Order VI Rule 17 CPC, the Court is not required to adjudicate upon the

truth, falsity, or ultimate merits of the proposed amendment. The merits of the proposed prayer must be tested during the trial of the main suit upon appreciation of oral and documentary evidence.

19. Allowing the petitioner to amend the plaint does not amount to an endorsement or acceptance of the truth of his claims. The respondents will have full liberty to file an additional written statement to counter the amended pleadings, raise all available legal defenses and cross-examine the plaintiff's witnesses on these issues.

20. Therefore, to ensure a complete and final decision on the controversy and avoid multiplicity of legal proceedings, this Court is of the considered view that the amendment application ought to be allowed. However, considering that the petitioner did not move this application immediately after the Commissioner's inspection and allowed time to elapse, the petitioners must bear costs for the delay caused. Furthermore, all defenses raised by the respondents regarding title, maintainability, and the nature of the land are explicitly left open to be framed as issues and decided during the trial of the main suit.

RESULT

21. In the result, this application is **ALLOWED** on condition of payment of **Rs. 1,000/-** (Rupees One Thousand only) as costs to the DLSA, Tirupathur **on or before 10.08.2026.**

22. Upon payment of costs, the petitioner / plaintiff is granted leave to

carry out the consequential amendments in the plaint and file a fair, clean copy of the amended plaint into Court within 14 days from date of compliance, as mandated under Order VI Rule 18 CPC.

23. For reporting compliance, Call on **10.08.2026**.

Directly typed by me in my official laptop, corrected and pronounced by me in the Open Court, this the 28th day of July 2026.

**DISTRICT MUNSIF,
VANIYAMBADI.**

APPENDIX

I. Witnesses Examined on behalf of petitioner : Nil

II. Documents Marked On behalf of the Petitioner: Nil

III. Witnesses Examined on behalf of respondents : Nil

IV. Documents Marked On behalf of the respondents: Nil

**DISTRICT MUNSIF,
VANIYAMBADI.**