

**IN THE COURT OF DISTRICT MUNSIF, GUDIYATTAM,  
VELLORE DISTRICT.**

Present: **Tr.K.Karthick Asath, B.A.,B.L.,(Hons),LLM.,**  
District Munsif,  
Gudiyattam.

Friday, this the 13<sup>th</sup> day of March 2026

**I.A.04/2024**  
**in**  
**O.S.No.116/2021**

Deejay Farms  
(Formerly Known as Deejay Consultancy Services)  
Rep by its Managing Partner  
David Jonathan Lobo

.... Petitioner/Plaintiff

// Versus //

1. Gunasekaran  
2. Ramesh

.... Respondents/ Defendants

This petition came up on 16.02.2026 before me for final hearing in the presence of Thiru.K.M.Boopathi, Advocate for Petitioner and Thiru.K.Sridhar, Advocate for the 1<sup>st</sup> respondent and Thiru.K.Moganaraju, Advocate for the 2<sup>nd</sup> respondent and upon perusing the case records and having stood over for consideration till this day this court delivered the following.

**Order**

Petition filed under Section 6, Rule 17 and Section 151 of Code of Civil Procedure to permit the petitioner to amend the plaint as mentioned in the petition and pass such other orders.

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**1. The averments of the petitioner in the applications:-**

The petitioner filed the above said suit for declaration of his right of easement over the ABCD portion shown in rough sketch along with plaint in “B” schedule mentioned property. The advocate commissioner also appointed and he also filed his report. In the mean while, after filing of the suit this Hon’ble Court also granted interim injunction. After passing an order of injunction the defendants illegally with ulterior motive obliterated the way in the suit “B” schedule mentioned property on 24.10.2022 and annexed with their land. Which act of them is highly illegal and unlawful. Under law they should restore the right of way in suit “B” schedule mentioned property which is shown has ABCD in rough sketch. Hence filing the present application to amend the plaint in the above said suit. Otherwise the petitioner will put to great hardship and loss.

**2. The averments of the 1<sup>st</sup> respondent in the application:-**

**(The 2<sup>nd</sup> respondent adopted the counter filed by the 1<sup>st</sup> respondent)**

The 1<sup>st</sup> respondent filed counter stating that the amendment will alter fundamental character of the suit. This amendment highly belated after filing of the written statement and appoint of advocate commissioner. The amendment seeks to introduce new facts, change of cause of action. The present amendment petition is malafide attempt to unlawfully acquire the B schedule property from respondent hence prayed to dismiss the petition.

**3. Petitioner side enquiry heard, respondents side failed to submit their side enquiry.**

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**4. Point for consideration:-**

Whether this application is liable to be allowed ?

**5. Evidence:-**

Neither of the parties to this application have adduced any oral or documentary evidence.

**6. Discussion:-**

On perusing the available records and considering the submission made by the petitioner counsel this court passing the following order.

**6.1.** The petitioner filed the suit against the respondents for declaration of easement right of way over the suit B schedule mentioned property and for permanent injunction. While the suit posted for trial the petitioner filed the present petition stating that after filing the suit and also granted interim injunction the respondents illegally with ulterior motive obliterated the way in the suit B schedule mentioned property on 24.10.2022 and annexed with their land. Hence they should restore the way in suit B schedule property hence the present petition for amendment is filed to amend the pleadings and prayed for mandatory injunction to restore the B schedule property.

**6.2.** Per contra the 1<sup>st</sup> respondent filed counter stating that the amendment will alter fundamental character of the suit. This amendment highly belated after filing of the written statement and appoint of advocate commissioner. The amendment seeks to introduce new facts, change of cause of action. The present amendment petition is malafide attempt to unlawfully acquire the B schedule property from respondent hence prayed to dismiss the petition.

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6.3. On perusing the available records the petitioner filed suit for easement right over the B schedule property for reaching his A schedule property. The petitioner stated that he purchased the A schedule property on 27.01.1963 in that sale deed itself B schedule property is shown as way for A schedule property but the respondents prevented the petitioner from enjoying the way on 05.06.2021 and 12.06.2021 on that he filed the suit for easement right of way over the suit B schedule property. In the present petition the petitioner stated that on 24.10.2022 the respondents closed the way to reach the A schedule property hence it is necessary to seeking mandatory injunction for restore the way in B schedule property. On perusing the records in this case advocate commissioner appointed in IA.02/2021. The advocate commissioner visited the property on 27.11.2021 and on 22.10.2022. On perusal is report he stated that at the time of second inspection on 22.10.2022 the alleged B schedule property is not in a same possession as per his previous inspection on 27.11.2021. For better appreciation the relevant portion is extracted here below,

*"நான் மனு சொத்திணை மேற்படி தேதியில் ஆய்வு செய்தபோது நான் ஏற்கனவே 27.11.2022 தேதியன்று ஆய்வு செய்தபோது இருந்த சொத்தின் பௌதீக தன்மைகள் பழையபடி இல்லை. ஏற்கனவே நடைபாதையாக இருந்த பகுதியைக்கூட மொத்தமாக கல் கம்பம் நடப்பட்டு கம்பி வேலி போடப்பட்டு இருந்தது. சர்வே எண்.222/1ஏ சொத்தானது தற்போது நிலமாக உள்ளது."*

On considering the report of advocate commissioner it is shows that the nature of B schedule property is changed subsequently on that the reason stated by the petitioner for amend the plaint is reasonable. While the plaintiff already filed suit for declaration by claiming easement right

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over the B schedule property then for the subsequent changes in the suit property the pleadings has to be permitted to amend for safeguard the reliefs claimed by the petitioner.

**6.4.** It is further submit that the only ground to be considered in the amendment petition is that whether the proposed amendment is seeks within the limitation period. On that the petition for seeking relief of mandatory injunction is filed on 12.12.2024 that is comes within 3 years from 24.10.2022 as per article 113 of limitation act. On considering the nature of amendment already sufficient pleadings are raised by the petitioner in the plaint, it is a consequential amendment based on the subsequent changes made by the respondents in the suit property. The amendment will not change the character of the pending suit and it will not cause prejudice to the respondents. The objections raised by the respondents are matter of trial and those will not be considered at the stage. On considering the above discussion the petitioner shows sufficient cause for allowing the petition and for avoid multiplicity of proceedings this court inclined to allow this petition.

## **7. Result:-**

As a result this petition is allowed without cost.

Dictated to Steno typist directly, typed by him corrected and pronounced by me in the open Court on this the 13<sup>th</sup> day of March 2026.

**Sd/- K.Karthick Asath,  
District Munsif,  
Gudiyattam.**

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**Petitioner side Witnesses and Exhibits :-** Nil

**Respondents side Witnesses and Exhibits :-** Nil

Sd/- K.Karthick Asath,  
**District Munsif,**  
**Gudiyattam.**

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