

**IN THE COURT OF DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
KARIAPATTI**

Present : Thiru.G.Yogeshwaran, B.A., L.L.B.,
District Munsif-cum-Judicial Magistrate, Kariapatti.
Wednesday this the 25th day of February 2026

**I.A.12/2025
In
O.S.No.219/2024**

Palani

..... Petitioner/plaintiff

..Vs..

1. Chinnapandi (**died**)

...1st Respondent/1st Defendant

2. Muthulakshmi

3. Karthi

4. Muniyammal.

.... 2,3,4 Respondents/ 2,3,4 Defendants

This petition was filed on 11.11.2025 and taken up on file on the same day and came up for final hearing in this Court on 17.02.2026 in the presence of Advocate Mr.P.Rajendran for the Petitioner/Plaintiffs and Advocate Mr.J.Marikumar Appeared for the R2 to R4 and R1 died. Upon perusing the records and having stood over for my consideration till this date, this court delivers the following.

Order

1. The present petition has been filed Under Order 6 Rule 17, 18 and Sec 151 of CPC.

2. Brief averments of the Petition is as follows:

The contention of the petitioner is that only when the case was posted for arguments, he got to know information from his advocate that an issue has been framed for whether the suit is bad for non joinder of necessary party. Thereafter he and his advocate once again went through the entire case bundles and only thereafter he came to know that the defendant has stated in their written statement that the plaintiff's grandfather namely Marimuthu has given the property to the defendant and patta has been issued in the name of the defendant in Patta No. 350. The defendant also in written statement has also pleaded that thereafter the defendant has executed a registered settlement deed in favour of his children namely Rajesh and Karthick, 2i.e 3rd defendant on 10.05.2012. This fact came to the knowledge of the petitioner only at the stage of argument. His advocate has given him legal advice that the children of the defendant need to be added as parties for complete adjudication of the case. One of the party to the deed namely rajesh has already died and his mother has been arrayed as 2nd defendant. The other party to the deed namely Karthick is already arrayed as 3rd defendant. Hence all the necessary parties have already been arrayed. However, he has got legal advice from his advocate that a prayer for declaration of settlement deed executed by the 1st defendant has to be declared as null and void for complete adjudication. Hence he has filed the present petition to amend the relief sought for in the plaint and to include the relief of declaration of settlement deed as null and void.

3. Gist of the counter filed by the Respondent No. 2 to 4:

The main contention by the respondents is that the plaintiff/ petitioner had knowledge about the settlement deed when the written statement was filed as early as on 11.12.2017. The plaintiff/ petitioner has come up with a cooked up story as if only at the stage of argument, he came to know about the said facts. The next cardinal contention raised by the respondents is the relief of declaration is barred by limitation. There is a huge delay of 9 years in filing the petition. The petition is filed only to drag on the case and the petition is devoid of merits and the petition deserves to be dismissed.

4. The point of determination

1. Whether the petition is to be allowed?

5. Discussion:-

5(1). The contention of petitioner is that only at the stage of argument, he came to know about the settlement deed executed by the 1st defendant in favour of his children and he has got legal advice that the plaint should be amended and that the relief of declaration of document as null and void has to be prayed for. On the other hand, the contention of the respondents is that the relief of declaration of document as null and void is barred by limitation and hence the petition for amendment is not sustainable.

5(2). The petitioner counsel has argued that only at the stage of argument, he has got knowledge about the contents of the settlement deed, but the argument of the petitioner's counsel is not sustainable. The petitioner's counsel has received the copy of the written statement on 11.12.2017. The petitioner and his advocate are duty bound to read the entire written statement and are supposed to be diligent. Hence the argument that only at the stage of argument, the plaintiff came to know about the settlement deed holds no water. This court presumes that the date on which the petitioner's counsel had received the written statement is the date on which the plaintiff has got knowledge about the facts in the written statement. The petitioner's counsel has received the written statement on 11.12.2017 and hence 11.12.2017 is presumed to be the date of knowledge about the settlement deed.

5(3). The cardinal issue is whether the prayer for relief of declaration as null and void is barred by limitation. As already discussed supra, the date of knowledge of settlement deed is 11.12.2017. Article 59 of the limitation Act states that the limitation for declaration is 3 years from the date on which the right to sue first accrues. The Hon'ble Supreme Court in **Shanti Devi v. Jagan Devi & Ors reported in 2025 INSC 1105** has held that

“ When a sale deed is void ab initio, a suit based on title is governed by Article 65 (12 years) of the Limitation Act, and not Article 59 (3 years).”

The Hon'ble Supreme Court in **Prem Singh v. Birbal reported in (2006) 5 SCC 353** has opined as follows :

- i. *First, that Article 59 of the Limitation Act, 1963 would only encompass within its fold fraudulent transactions which are 'voidable' transactions and not those that are 'void'. In other words, Article 59 would apply only where an instrument is prima facie valid and not to those instruments which are presumptively invalid.*
- ii. *Secondly, that when the document in question is void ab initio/or void, a decree for setting aside the same would not be necessary since such a transaction would be non-est in the eyes of law, owing to it being a nullity.*
- iii. *Thirdly, a fine distinction was drawn between fraudulent misrepresentation as regards the 'character of the document' and fraudulent misrepresentation as regards the 'contents of a document'. It is only in the former situation that the instrument would be void and, in the latter, it would remain voidable. To put it simply, Article 59 would not govern the period of limitation in respect of a void transaction.*
- iv. *Lastly, that if a deed was executed by the plaintiff when he was a minor and it was thereby void, he had two options to file a suit to get the property conveyed thereunder i.e., he could either file the suit within 12 years of the deed or within 3 years of attaining majority.*

5(4). Hence as per the dictum laid down by the Hon'ble Supreme court, the limitation for deed which is void ab initio is governed by article 65 when the ancillary relief is for injunction and hence the period of limitation is 12 years. In the present case on hand, the suit has been filed for the relief of bare injunction and the petitioner also claims that defendant has no right to execute the settlement deed in favour of his children and claims the sale deed as null and void ab initio. Therefore as per the pleadings of the petitioner/ plaintiff, the period of limitation is governed under Article 65 of the Limitation Act and the time period is 12 years. As already discussed supra, the date of knowledge when the plaintiff/ petitioner had knowledge about the settlement Deed is on 11.12.2017. The present amendment petition has been filed on 07.11.2025. Hence the relief sought through amendment is not barred by limitation.

5(5). The next issue which arises is whether the amendment petition can be filed at the stage of argument and when the trial has been completed. The Hon'ble Supreme Court in **LIC Vs Sanjeeva Builders reported in 2022 SCC OnLine SC 1128** has held that

“Civil Court can allow the amendments of the plaint as well as of the written statements. Amendments of the pleadings should be allowed which are necessary for determination of the real controversies but should not be allowed to alter or substitute a new cause of action on the basis of which the original lis was raised or defense taken.”

5(6). As per the dictum laid down by the Hon'ble Supreme court as discussed supra and, in several precedents, the Hon'ble Supreme Court has held that amendment of pleading may be allowed after the commencement of trial, if it is necessary in deciding the real issue in controversy between the parties. Though the petition for amendment is filed at a belated stage, mere delay cannot be a ground to refuse amendment when refusal would result in multiplicity of proceedings. The amendment sought for is necessary for effective and complete adjudication of the dispute. The relief of declaration sought is merely ancillary and intended to clear the cloud cast upon the plaintiff's title. Moreover, the amendment does not introduce a fresh cause of action. The defendants can be compensated by costs and by granting liberty to file additional written statement. All the cases have to be decided on their merits after affording opportunities to the parties. Hence for the reasons stated above and in the interest of justice, this court deems it fit that the present petition is to be allowed. Accordingly, the petition is allowed with cost of Rs 2000/- only payable to the respondents on or before 06.03.2026. If the cost is not paid within 06.03.2026 the order shall stand automatically dismissed.

6. In the result, the petition is allowed with cost of Rs 2000/- only payable to the respondents on or before 06.03.2026. If the cost is not paid within 06.03.2026 the order shall stand automatically dismissed.

Typed by me directly in my computer and corrected and pronounced by me in the open court on this the 25th day of February 2026.

District Munsif cum Judicial Magistrate,
Kariapatti.

List of witness and documents on Petitioners side :- - Nil -

List of witness and documents on Respondents side :- - Nil -

District Munsif cum Judicial Magistrate,
Kariapatti.

District Munsif cum
Judicial Magistrate Court,
Kariapatti.
IA.No.12/2025 in OS.219/2024
Fair Order
Dated 25.02.2026