

IN THE COURT OF PRINCIPAL DISTRICT MUNSIF, KUZHITHURAI

Present: Thiru. A. Palkalaiselvan, B.A., B.L.,

Principal District Munsif

Monday, the 13th day of October 2025

I.A.No.5/2025

In

O.S.No. 221/2022

S.Rebac Mary

... Petitioner/Plaintiff.

/Vs./

1. Thomas

2. Vibin Shaj

... Respondents/Defendants

This petition came up before me for the final hearing on 13.10.2025 in the presence of Thiru. C.Captain Singh, Advocate for the Petitioner/Plaintiff. Thiru.C.L. Balji, Advocate for the Respondents/Defendants and on perusal of records having stood over for consideration till this date of this court delivers the following:-

ORDER

This petition filed by the petitioner/plaintiff under Order VI Rule 17 and Section 151 of CPC to amend the plaint.

2. The petitioner/plaintiff filed the present amendment application under Order VI Rule 17 and Section 151 of the Code of Civil Procedure seeking the reliefs mentioned in the petition. In paragraph 3 of the plaint, the petitioner sought to delete certain portions and substitute them with new facts.

3. On the other hand, the respondents filed a counter affidavit objecting to this application, contending that Plot No. 4 in the plaint 'B' schedule property, having an extent of 1.660 cents, is a common pathway. Hence, the plaintiff is estopped from claiming any independent right over the same. The said Plot No. 4 is being used as a common pathway by both the plaintiff and the defendants. The respondents' counsel further submitted that the plaintiff is relying on Sale Deed No. 1305/2008 of Palliyadi Sub-Registrar Office, under which Plot No. 4 has been specifically allotted as a common pathway for all the plots.

4. Upon considering the rival contentions raised by both sides regarding the relief sought in the amendment petition, it is observed that the property originally belonged to one Joseph, as evidenced by Sale Deed No. 1305/2008 (filed as Document No. 2 before this Court). The plaintiff, S. Rebac Mary, purchased the property from the said Joseph, son of Chelliah. On examination of the document, it is found that the suit property comprises Re.Sy.No.1038/15 (corresponding to old Sy.No.4759 and 4760), in which Plot No. 4 measures 1.660 cents. Out of this, an extent of 830 square links (half portion) was purchased by S. Rebac Mary.

5. However, the averments in the plaint describe the disputed 'B' schedule property as a pathway, and the petitioner herself has admitted that the disputed 'B' schedule property was allotted as a pathway. The plaintiff's claim is that she has exclusive rights over 830 square links out of the total 1.660 cents in Plot No. 4 as per Document No. 8453/2007. When the property is allotted as a common

pathway, even though an individual may have purchased a portion, such a pathway is meant for common use by all persons for ingress and egress.

6. Therefore, the petitioner's claim of having an exclusive right over the said extent of 830 square links is untenable, as no one can restrain or obstruct the use of a common pathway. It is a well-settled principle of law that common pathways are meant for common use. Hence, the petitioner's contention that no pathway right was allotted to Joseph, S/o Chelliah, in respect of Plot No. 4 under the above-referred sale deed is unsustainable.

7. Furthermore, the main suit filed by the petitioner for declaration and permanent injunction concerning the pathway is a matter to be proved during trial. Therefore, the relief sought in the amendment petition is legally unsubstantiated and unwarranted. Accordingly, the petition is closed. No costs.

In the result, this petition is closed. No costs.

Dictated to the Steno-Typist, directly and typed by her, corrected and pronounced by me in open court, on this the **13th day of October 2025.**

**Sd/-
Principal District Munsif,
Kuzhithurai.**

I.A. No. 5/25 in
O.S. No. 221/22
Draft/Fair Order
Date 13.10.25