



C.R.P.(MD)No.1075 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 11.03.2026

CORAM :

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(MD)No.1075 of 2023

and

C.M.P.(MD)No.5037 of 2023

R.Karuppaiah (Died)

1.K.Eshwari

2.K.Premalatha

3.K.Sivaramakrishnan

4.K.Sudhakar

.. Petitioners

vs.

Mookkan

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 02.03.2023 passed in I.A.No.06 of 2022 in A.S.No.08 of 2020 in Sub Court, Periyakulam.

For Petitioners : Mr.M.P.Senthil

For Respondent : Mr.S.Balaji,
For Mr.R.Shankar Ganesh.



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ORDER

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Heard, Mr.M.P.Senthil, for the petitioners and Mr.S.Balaji, representing Mr.R.Shankar Ganesh, for the respondent.

2.This Civil Revision petition challenges the order passed by the learned Subordinate Judge at Periyakulam in I.A.No.6 of 2022 in A.S.No.8 of 2020, dated 02.03.2023, whereby the learned Subordinate Judge dismissed the application filed for amendment by the petitioners / plaintiffs.

3.O.S.No.172 of 2013 was presented before the District Munsif Court at Periyakulam seeking the relief of permanent injunction restraining the defendant from interfering with the plaintiff's possession and mandatory injunction calling upon the defendant to remove the encroachments that he had made over the suit schedule mentioned property. Written statement was filed by the defendant. Issues were framed. The matter went for trial. After an analysis of evidence, both documentary and oral let in by the parties, the learned District Munsif, Periyakulam, by judgment and decree dated 16.03.2020, dismissed the suit.



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4. Aggrieved by the same, the plaintiff preferred an appeal before the learned Subordinate Judge at Periyakulam. The said appeal was received as A.S.No.8 of 2020. Pending the proceedings, the sole appellant / sole plaintiff passed away and his legal heirs were brought on record as appellants 2 to 5.

5. The appellants filed an application in IA No.6 of 2022, seeking amendment of the plaint. The amendment sought are as follows:-

“1. பிராது 9வது பாராவில் 3வது வரியில் உள்ள “நீக்கி Vacant Possession” என்று உள்ளதை அடித்துவிட்டு அதற்கு பதிலாக “இடித்து அப்புறப்படுத்தி கொள்ள Mandatory injunction” என்று சேர்த்து கொள்ள வேண்டும்.

2. வழக்கின் பிராது பரிகாரம் ஆ) “நீக்கி Vacant Possession” என்று உள்ளதை அடித்துவிட்டு அதற்கு பதிலாக “இடித்து அப்புறப்படுத்தி கொள்ள Mandatory injunction” என்று சேர்த்து கொள்ள வேண்டும்.

3. பிராது சொத்து விபரத்தில் 5வது வரியில் “நிர் பாட்டுக்கு” அடுத்து “தற்போது சப் டிவிசன்படி T.S. 2441/2” என்று சேர்த்து கொள்ள வேண்டும். நான்குமாலில் T.S.2441 நிரில் பெரியசாமி மனைக்கும் தெற்கு என்று உள்ளதில் அதன் தொடர்ச்சியாக தற்போது T.S.2441/2 என்று சேர்த்து கொள்ள வேண்டும்.



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6.This application was opposed by way of a counter by the defendant. The learned Subordinate Judge took up the application for disposal and by an order dated 02.03.2023, dismissed the same. Hence, this Civil Revision Petition, at the instance of the plaintiffs.

7.I have gone through the aforesaid amendment. The reading of the plaint shows that the plaintiffs claim that the defendant had encroached upon a portion of the property belonging to them and hence, they had sought for mandatory injunction, calling upon the Court to give a direction to the defendant to handover the vacant possession of the property. The fact that they had sought for mandatory injunction is clear on a perusal of the court-fee portion of the plaint, which has been appropriately valued under Section 27(c) of the Tamil Nadu Court-Fees and Suit Valuation Act.

8.The amendment petition has been dismissed on two grounds; (1) on the ground of delay; and (2) the amendment is unnecessary, as on the basis of the available pleadings and documents, the Court can effectively pass the judgment in the appeal suit.



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9.Insofar as the amendments itself are concerned, they neither change the frame of the suit nor take the defendant by surprise. All that has been done is to delete the word “vacant possession” and substitute it by way of “mandatory injunction”. Insofar as the amendment on the survey numbers is concerned, it is not an insertion of a new survey number. Pending the suit, the survey number had undergone a mutation at the hands of the revenue authorities and hence, the plaintiffs want to bring the plaint in line with the present revenue survey numbers. The pleas, that they have taken on the basis of which they seek for a decree from the Court, remains unaltered. By granting the amendment, the defendant is not going to be taken by surprise. At best, they are clarificatory in nature.

10.Insofar as the plea of delay is concerned, the learned Subordinate Judge could have imposed cost on the plaintiffs and could have allowed the application, especially, when the cause of action for the suit continues to remain the same.

11.With respect to the plea that, if the amendment is granted, the suit would have to be remanded for fresh disposal is concerned, Mr.M.P.Senthil submits that the plaintiffs are not going to let in any fresh



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evidence on the basis of the amendment. He states that he has filed an application under Order XLI Rule 27 of the Civil Procedure Code. This statement of his would not stand in the way of that the application being considered independently by the learned Appellate Judge.

12.The fear expressed by Mr.S.Balaji that the defendant would be prejudiced, if the amendment is granted, does not hold water. This is because, as pointed out above, the prayer portion alone is being amended and the survey numbers are being brought in line with the existing revenue records.

13.In the light of the above discussions, the Civil Revision Petition is allowed on the following terms:-

(i) The petitioners shall pay a cost Rs.10,000/- (Rupees Ten Thousand Only) to the respondent within a period of two weeks from the date when the order copy is uploaded in the website of this Court.

(ii).The learned Subordinate Judge, Periyakulam is requested to confirm the payment of costs, once, it is confirmed, the appellants would be permitted to amend the plaint.



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(iii).On such amendment, the defendant will be entitled to file a written statement confining himself to the amendments made.

(iv).Both the parties will not be entitled to let in evidence on the basis of the amendments.

(v).The statement made by both parties that they will not let in any evidence on the basis of the amendments will not stand in the way of the Court to consider the application said to be pending under Order XLI Rule 27 of the Civil Procedure Code and that the application will be tried independently on its merits, along with the appeal.

No costs. Consequently, connected miscellaneous petition is closed.

11.03.2026

Index :Yes / No
Internet : Yes / No
NCC :Yes / No
ias
To:

- 1.The Sub Court,
Periyakulam.
- 2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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V.LAKSHMINARAYANAN, J.
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