



C.R.P.(MD)No.3595 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.02.2026

CORAM

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

C.R.P.(MD)No.3595 of 2025

A.Babunu

... Petitioner

-VS.-

1.Paiyaskan

2.Navaskan

3.The Sub Registrar,
Kulathur Taluk, Pudukottai.

4.The District Collector, Pudukottai.

...Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the fair and decreetal order, dated 03.07.2025 in I.A.No.5 of 2024 in O.S.No.35 of 2017 on the file of the learned District Munsif Court, Keeranur.

For Petitioner	:Mr.P.Ganapathi Subramanian
For R1	:Mr.A.Vijaya Kumar
For R2	:Ms.Susmitha
For R3 and R4	:Mr.F.Deepak
	Special Government Pleader



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ORDER

The present Civil Revision Petition has been filed challenging the order passed by the learned District Munsif, Keeranur, in I.A.No.5 of 2024 in O.S.No.35 of 2017, dated 03.07.2025.

2.Heard Mr.P.Ganapathi Subramanian, learned Counsel for the Revision Petitioner, Mr.A.Vijaya Kumar, learned Counsel for the first respondent, Ms.Susmitha, learned Counsel for the second respondent and Mr.F.Deepak, learned Special Government Pleader for the respondents 3 and 4.

3.The petitioner is the plaintiff in the suit in O.S.No.35 of 2017 on the file of the District Munsif Court, Keeranur. The respondents are the defendants in the suit. The said suit was filed for permanent injunction. During the pendency of the suit, the petitioner herein has filed an interlocutory application in I.A.No.5 of 2024 under Order VI Rule 17 of the Code of Civil Procedure to amend the plaint. The learned District Munsif, Keeranur, vide impugned order, dated 03.07.2025, had dismissed the said application on the

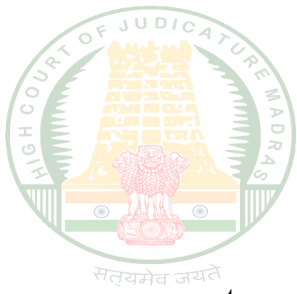


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ground that it defeats the law of limitation and changes the nature of the suit.

Challenging the same, the present Civil Revision Petition has been filed.

4.The learned Counsel for the petitioner submitted that the petitioner's brother instituted a partition suit against the petitioner and his sisters and the respondents 1 and 2 in O.S.No.20 of 2013 seeking partition and separate possession. However, the learned Principal District and Sessions Judge, Pudukottai, had passed decree declaring that the registered settlement deed executed by the petitioner's mother is invalid and not binding and dismissed the prayer for partition. Hence, the petitioner wants to incorporate the details with regard to the said judgment and decree and to include the relief of declaration to declare the execution of the unilateral cancellation deed, dated 11.05.2007 as null and void and that the present application has been filed. However, the Court below without examining the dispute involved in filing the amendment application had dismissed the same and failed to appreciate the legal and factual aspects in a proper perspective manner. The trial Court failed to appreciate that the proposed amendment does not introduce any new cause of action and if the amendment of the plaint is allowed, it does not change the

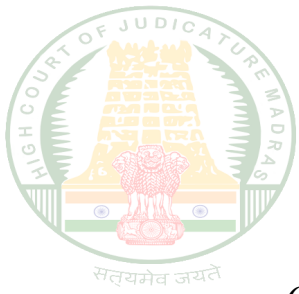


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nature of the suit. The trial Court failed to appreciate the fact that no prejudice will be caused to the respondents, if the application for amendment is allowed. The trial Court ought not to have dismissed the said application, when the amendment of the plaint is necessary to determine the real question of controversy between the parties.

5.*Per contra*, Mr.A.Vijaya Kumar, learned Counsel for the first respondent submitted that the application filed by the petitioner has been filed after seven years of the institution of the suit and that the same is barred by limitation, which has been rightly taken into consideration by the Court below. The learned Counsel also submitted that the petitioner by way of filing a petition to amend the prayer, has tried to change the nature of the suit, which has been rightly negated by the Court below. He further submitted that the Court below after analysing the entire facts and circumstances of the case, has rightly dismissed the application filed by the petitioner, which does not warrant interference of this Court.



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6.Ms.Susmitha, learned Counsel for the second respondent submitted that the application under Order VI Rule 17 CPC can be allowed, only if it is filed without changing the nature of the suit and if the petition is filed to change the nature of the suit, it cannot be permitted. She also submitted that the Court below has rightly rejected the application filed by the petitioner on the ground of limitation, as the petitioner has filed the present application after seven years. She also submitted that the petitioner has no *locus standi* to introduce a new plea, which has been rightly deprecated by the Court below. She relied upon a judgment of Hon'ble Supreme Court in the case of ***Asian Hotels (North) Limited -vs.- Alok Kumar Lodha and others***, reported in ***(2022) 8 SCC 145***, wherein, the Hon'ble Supreme Court has held as follows:

“8.The High Court while allowing the amendment application in exercise of powers under Order 6 Rule 17 of the Code of Civil Procedure has not properly appreciate the fact and / or considered the fact that as such, by granting such an amendment and permitting plaintiffs to amend the complaints incorporating the prayer clause to declare the respective charges / mortgages void ab initio, the nature of the suits will be changed. As per the settled proposition of law, if, by permitting plaintiffs to amend the complaint including a prayer clause nature of the suit it likely to be changed, in that case, the Court would not be justified in allowing the amendment it would also result in misjoinder of cause of action.”



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7.This Court considered the submissions made on either side and perused the materials available on record.

8.The petitioner is the plaintiff in the suit and he has filed an amendment application to amend the plaint and include a prayer. From the perusal of the application filed by the petitioner to amend the plaint, it is revealed that the petitioner has approached the Court below with an intention to change the nature of the suit, as the petitioner by way of amending the plaint has prayed to include the prayer for declaration to declare the execution of unilateral cancellation deed, dated 11.05.2007 executed by the petitioner's mother as null and void. It is well settled that if the amendment application for amending the plaint would change the nature of the suit, the said application is not maintainable. The present application was filed for amending the plaint and to include the prayer of declaration, whereas, the present suit was filed for bare injunction. Further, the petitioner has filed the present application beyond the period of limitation, as the unilateral cancellation of deed was of the year 2007 and the present application has been filed in the year 2024. The petitioner has



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not given any valid reasons for the inordinate delay. The trial Court has rightly considered all these facts and dismissed the above petition, which does not warrant interference of this Court.

9.In the result, the Civil Revision Petition is dismissed. No costs.

10.This Court placed its appreciation on the learned Court appointed Legal Aid Counsel for the second respondent, who has rendered her effective submission for arriving at the appropriate decision. The High Court Legal Services Committee attached to this Bench shall pay a sum of Rs.10,000/- in *toto* as remuneration to the learned Court appointed Legal Aid Counsel, who is appearing for the second respondent, within a period of two weeks from the date of receipt of a copy of this order.

17.02.2026

Internet	:Yes/No
NCC	:Yes/No
Index	:Yes/No

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To

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N.SENTHILKUMAR, J.

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