

IN THE COURT OF THE PRINCIPAL MUNSIFF, CHERTHALA

Present: Sri. Rovin Rodrigues, Principal Munsiff

Thursday, the 20th day of March 2025/ 29th Phalgunam, 1946.

IA 12/2024 in O. S. No. 143/2020

(Filed on 26.11.2024)

Petitioner/Defendant:-

Chandrika, W/o. Krishnappan, @ Krishnan,
Thoppil Kovilakath, Thirunelloor Muri,
Chenam Pallipuram Village.

By Adv.C.N.Ponnappan.

Cr.Petitioner/Plaintiff:-

Omana, W/o. Remanan, Nakkalapatil,
Chembu Kara, Chembu Village,
Vaikom Taluk, from Thoppil Kovilakath,
Thirunelloor Muri, Chenam Pallipuram Village.

By Adv. D.Subhash Chandran.

This petition having been finally heard on 20.03.2025 and the Court on the same day passed the following:-

ORDER

The petition was filed by the defendant under Order VI Rule 17 of CPC to amend the written statement .

2. The averments in the petition are: The petitioner is the defendant in the original suit. The evidence from both sides was completed, and the case has been posted for a final hearing on 16.11.2024. Upon review, the petitioner noticed certain typographical errors in paragraphs 2, 4 and 12 of the written statement filed on 08.03.2022. These errors result in a change in meaning, and they are merely typographical mistakes, which is evident from other parts of the pleadings. Additionally, there is a need to add one or two sentences at the end of paragraphs 2 and 12 for further clarification. Some reliefs sought in the suit were inadvertently omitted from the written statement. It is essential to correct the erroneous words and add the necessary clarifications. Hence, this petition for amendment is filed. The petitioner was unaware of the mentioned errors until now. There was no negligence or intentional omission on the part of the petitioner. Amending the written statement will not cause any prejudice to the opposite party. If the amendment application is not allowed, it will cause irreparable loss and distress to the petitioner/defendant.

3. The respondent/plaintiff filed an objection with the following contentions:- The petition is entirely illegal and filed with an experimental approach. The defendant has filed the petition stating falsehoods to delay the rightful share due to the plaintiff in this case. Following the defendant's written statement, the court had framed issues, and both parties presented evidence based

on that. The defendant, during the presentation of evidence in this case, provided evidence that did not conform to her written statement. Realising that the statements and evidence presented by the defendant contradict the pleadings and are not legally maintainable, she has now filed this petition for amendment with malicious intent and ulterior motive. The aim of the defendant is to amend the pleadings to align with the subsequently presented evidence. The requested amendments are malicious and aim to exclude and add parts not mentioned in the pleadings or evidence. Allowing them would indefinitely extend the proceedings. The amendments sought would introduce a new case. The disputes regarding court fees should have been raised as a preliminary issue. Hence, the petition for amendment at this belated stage should be dismissed with costs.

4. Heard both sides and perused the records.

5. The defendant has filed this application for amending the written statement, alleging that certain typographical errors had crept into her written statement. The plaintiff, on the other hand, would contend that the application is highly belated and filed with malicious intention to protract the case. Going by the amendment application, it can be seen that the corrections sought are with regard to the Kudikidappu right of their father, the assessment of building tax in the mother's name, Pankajakshi, etc. Amendment of these facts would amount to withdrawing the previous admissions of the defendant. In the written statement, the defendant had already admitted that their father also had kudikidappu rights over

the plaint schedule property. Now, she seeks to amend and state that the father had been residing at Kanichukulangara at the time. The defendant's case is that the buildings on the plaint schedule property were assessed in her husband's name. Now she wants to correct it to Pankajakshi, her mother's name. The Hon'ble Supreme Court in **B. K. N. Pillai v. P. Pillai, 2000 KHC 54** has held, "Inconsistent and contradictory allegations in negation to the admitted position of facts or mutually destructive allegations of facts should not be allowed to be incorporated by means of amendment to the pleadings." In **Life Insurance Corporation of India v. Sanjeev Builders Private Limited and Another, AIR 2022 SC 4256**, the Hon'ble Supreme Court has observed that the prayer for amendment could be allowed if by the amendment, the parties seeking amendment does not seek to withdraw any clear admission made by the party which confers a right on the other side. Hence, I hold that the amendments sought by the defendant in this case cannot be permitted.

6. The suit is one for the partition. The only question to be determined in this suit is regarding the partibility of the properties. I am of the considered opinion that the amendments sought by the defendant are not necessary to determine the real questions in controversy between the parties. The defendant filed this amendment application after the trial was concluded, and there is no evidence to suggest that she could not have raised the matter before the trial began, even with

due diligence. Therefore, I believe that dismissing the amendment application is the appropriate course of action.

As a result, the petition is dismissed with costs to the respondent/plaintiff.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in the open Court on the day of 20th March, 2025.)

Sd/-
Rovin Rodrigues
Principal Munsiff

Appendix:- Nil

Sd/-
Principal Munsiff

/True Copy/

Principal Munsiff

Typed by :jc
Comp by :ra

Fair Copy of Order in
IA No.12/24 in O.S.143/2020
Dated: 20.03.2025