

IN THE COURT OF THE MUNSIFF, ATTINGAL  
PRESENT: SRI. RAJEEV. V, B. Sc, LL.B, MUNSIFF  
TUESDAY 16<sup>th</sup> OCTOBER, 2018/24<sup>th</sup> ASWINA, 1940

**ORDER ON I.A.2020/2018 in O.S. 575/2008**

**Petitioners/Plaintiffs:**

1. Radha, D/o Karthiyayani, aged 75, Mylakunnil Veedu, Near Govt. H.S. Kilimanoor, Pazhayakunnummel Village
2. Sudhambika, D/o Radha, aged 55, residing at do.....do.....
3. Sheela, D/o Radha, aged 45, residing at do.....do.....
4. Sheeja, D/o Radha, aged 40, residing at do.....do.....

By Adv. K.S. Vinod

**Counter Petitioners/ Defendants:**

1. Rugmini, W/o Sudhakaran, Sudhakar Bhavan, Moothala, Pallickal Village
2. Suresh Babu, S/o Sivasankaran, Mylakunnil Veedu, Near Govt. H.S. Kilimanoor, pazhayakunnummel Village

By Adv. J.S. Radhika

This petition having been heard by the court on 16/10/2018 and the court on the same day passed the following.

**ORDER**

This is a petition for amendment of the plaint filed by the petitioner u/O 6 of Rule 17 CPC.

2. The petition averments in brief is as follows:

The petitioners are the plaintiffs in the suit. The suit is one for declaration of title and possession over plaint B schedule property. There was an error in the survey number of the plaint B schedule property. It was mistakenly stated that the re-survey number of the plaint B schedule property as 439/22 instead of 439/23. A

plea was raised by the defendants in their amended written statement that the property having an extent of 90 ares in re-survey No.439/23 belongs to them by virtue of Will deed No.51/1989. The Will is a bogus creation aimed to usurp properties of neighbors and the Will is not duly executed. Plaintiffs also pray to correct some errors crept in boundary description of plaint A schedule property. Hence, the petitioner prays to allow the petition.

3. The defendants filed written objection contending as follows:

The petition is not maintainable either on law or on facts. The proposed amendment is inconsistent with the stand taken by the plaintiff for the last 10 years. The proposed amendment will change the nature and character of the suit. The proposed amendment shows that the plaintiffs even do not know the details of their own properties. Plaintiffs have no right to claim title over B schedule property. The attempt of the plaintiff is to grab the properties of the defendant. The Will deed in favour of the defendant is a valid one. There is no basis for the prayer of the plaintiffs to amend the description of plaint A schedule property. Hence, the defendants pray to dismiss the amendment petition.

4. Heard both sides.

5. Counsel for the petitioner maintained that the proposed amendment is in accordance with the plan filed and also in pursuance with the amended written statement. On the other hand, counsel for the defendant maintains that the attempt of the petitioner is to change the nature and character of the suit.

6. The trial of the suit is not yet started. Defendants have amended the written statement raising the contention that the plaint schedule description is incomplete and that plaint A schedule property includes plaint B schedule also. I am of the view that a definite pleading regarding the survey number of the property and the plaint schedule description are necessary for deciding the real dispute between the parties. The proposed amendment will not change the nature of the suit as alleged by the defendants. Accordingly, I am satisfied that the proposed amendment can be allowed.

In the result, the petition is allowed and the petitioner shall carry out amendment in the plaint within 10 days from the date of this order.

*Dictated to the C.A, transcribed and typed by her, corrected and pronounced by me in Open Court on this the 16<sup>th</sup> day of October, 2018.*

Sd/-  
RAJEEV. V  
MUNSIFF

**Appendix:** Nil

Id/-  
MUNSIFF

//True Copy//

Typed by: Sakkeena Beevi  
Compared by:

MUNSIFF

