

THE COURT OF ADDITIONAL DISTRICT MUNSIF, JAYANKONDAM

Present: Thiru M.S. KANNADHASAN M.L.,
Additional District Munsif, Jayankondam.

Wednesday, the 12th day of August, 2026

I.A. No. 11 / 2026 in OS No. 386 / 2015

Kannan

...Petitioner/ Plaintiff

// vs //

Indian Overseas Bank

Represented by the Manager,

...Respondent/Defendant

This petition came up for final hearing before me on 25.06.2026 in the presence of Advocate **Mr. N. Mani**, appearing for the Petitioner and Advocate **Mr. T. A. P. Senthilkumar**, appearing for the Respondent and having heard both side arguments and having stood over for consideration till this date, this Court delivers the following...

ORDER

1. This petition is filed under Order VI Rule 17, 18 of the Code of Civil Procedure, 1908 by the Petitioner/ Plaintiff to permit amendment of the Plaint.

BRIEF AVERMENTS OF THE PETITION

2. The petitioner averred that the petitioner is Plaintiff in the original suit in which petitioner sought for the relief of declaration of auction sale of Jewels of petitioner by the respondent as void and if that prayer alone is asked the petitioner will not be able to legally get back the jewels from the respondent/defendant. Therefore the petitioner seeks for amendment of plaint to include the prayer of mandatory Injunction directing the respondent/defendant to give back the jewels to the petitioner and if the petition is not allowed the petitioner will be put to loss and hardship which cannot be compensated and hence this petition.

BRIEF AVERMENTS OF THE COUNTER

3. This Petition filed by the Petitioner is not maintainable either in law or on facts and is liable to be dismissed in limine. It is submitted that the petitioner has not stated any valid reason as to why the relief sought in this petition is not asked at

that time of filing this suit, this suit is filed in the year 2015. Now it is 2026. In between the trial has been commenced two or three times. At that time the petitioner has not sought for this amendment. Now the trial has commenced and the Plaintiff was examined as PW1 and the suit is posted for cross examination of the PW1. Now all of the sudden the plaintiff awakened from the long slumber has filed this petition to amend the prayed of the plaint which is not supported by any valid reason. Amending the plaint could not be done at the whims and fancies of the plaintiff. It is submitted that this defendant has appeared before this court and filed his written statement and issues were framed. The trial has also begun. At this stage the plaint cannot be amended as the trial has begun and if the plaint is amended then again the defendant has to file additional written statement and additional issues have to be framed and again fresh proof affidavit has to be filed. By doing all these things the precious time of the court will be wasted. It is further submitted that amending the plaint is not a matter of right. The petitioner has to satisfy the court as why he could not make the amendment is to drag on the matter. The defendant is being harassed by the plaintiff for the past 11 years and again he is harassing the defendant by filing this application. It is painful for the defendant to follow the case by engaging counsel among the day to day busy schedule. There is no merit in the petition and as such this petition is liable to be dismissed. Therefore, the Respondent seeks to dismiss the Petition with costs.

POINT FOR DETERMINATION

4. Upon the consideration of both side submissions, the point to be determined is whether this petition is to be allowed or not.

ANSWERING THE POINT FOR DETERMINATION

5. This petition has been filed by the petitioner / plaintiff under Order VI Rule 17 Code of Civil Procedure, 1908 seeking amendment of the plaint by incorporating an additional prayer of mandatory injunction directing the defendant bank to return the jewels pledged by the plaintiff.

6. The case of the plaintiff is that the plaintiff had pledged his jewels with the defendant bank and had paid the interest due thereon. Subsequently, when the plaintiff approached the defendant bank for redeeming the jewels, he was informed that the jewels had already been sold in auction. Alleging that the said auction sale was illegal and was not conducted in accordance with the prescribed procedure, the plaintiff instituted the present suit seeking a declaration that the auction sale is void.

7. The defendant contested the suit by contending that the auction was conducted in accordance with the prescribed procedure. The plaintiff was examined as PW1 and his chief examination was completed. When the suit was posted for cross-examination of PW1, the defendant failed to appear and was set ex parte and an ex parte decree came to be passed. Subsequently, the defendant filed a petition to set aside the ex parte decree and the same was allowed on payment of costs. Consequently, the ex parte decree was set aside and the suit is now pending for cross-examination of PW1.

8. At this stage, the plaintiff has filed the present petition seeking to amend the plaint by incorporating a prayer for mandatory injunction directing the defendant to return the jewels.

9. The defendant has opposed the petition contending that the suit was instituted in the year 2015 and the amendment petition has been filed only in the year 2026. It is contended that the plaintiff has not assigned any sufficient reason for the delay and that the amendment is sought after commencement of trial. It is therefore contended that the petition is liable to be dismissed.

10. Heard the learned counsel appearing for both sides and perused the materials available on record.

11. It is not in dispute that the original suit itself arises out of the alleged auction of the jewels pledged by the plaintiff with the defendant bank. The principal relief sought in the suit is to declare the said auction sale as void. By the

proposed amendment, the plaintiff seeks a consequential relief directing the defendant to return the jewels.

12. On consideration of the pleadings, this Court finds that the proposed amendment is directly connected with the subject matter of the original suit. The proposed relief does not introduce an entirely new transaction or an independent cause of action. The validity of the auction sale and the consequence thereof in respect of the pledged jewels are matters arising out of the same transaction.

13. It is true that the suit was instituted in the year 2015 and that the present amendment petition has been filed at a belated stage. It is also true that the plaintiff has already been examined in chief and the suit is now posted for cross-examination of PW1. The plaintiff has stated that, if the amendment is not permitted, hardship would be caused to him which cannot be compensated.

14. The proviso to Order VI Rule 17 CPC requires the party seeking amendment after commencement of trial to satisfy the Court that, notwithstanding the exercise of due diligence, the matter could not have been raised before commencement of trial. The requirement of due diligence is undoubtedly a relevant consideration. However, the Court has to consider the nature of the amendment sought and whether refusal of the amendment would result in multiplicity of proceedings or prevent complete adjudication of the controversy between the parties.

15. In the present case, the proposed relief is in the nature of a consequential relief arising from the very subject matter of the original suit. The plaintiff is not seeking to introduce a new transaction or an altogether different case. The question as to whether the auction sale is valid or void is already the principal controversy between the parties. If the plaintiff ultimately succeeds in establishing that the auction sale is void, the question as to the consequential relief in respect of the jewels would necessarily arise for consideration.

16. If the proposed amendment is refused, the plaintiff may be compelled to institute another proceeding seeking appropriate relief in respect of the same jewels

and the same auction transaction. Such a course would result in multiplicity of proceedings and would not advance the cause of justice. On the other hand, if the amendment is allowed, no irreparable prejudice would be caused to the defendant, since the defendant can be afforded adequate opportunity to file an additional written statement and to contest the amended relief. The defendant can also be given sufficient opportunity to meet the amended pleading. The amendment would therefore enable the Court to effectively and completely adjudicate the controversy between the parties.

17. The proposed amendment does not amount to an admission of the plaintiff's claim. The question whether the plaintiff is actually entitled to the return of the jewels, whether the auction sale is valid, whether the defendant followed the prescribed procedure, and whether the relief sought is otherwise legally sustainable are all matters to be decided on the basis of evidence at the stage of trial.

18. In the circumstances, this Court is of the view that the proposed amendment is necessary for determining the real controversy between the parties and for avoiding multiplicity of proceedings.

19. Accordingly, the petition is allowed. No Costs.

This Order is typed by me directly in my official laptop, corrected and pronounced by me in open court on this the 12th day of August, 2026.

Additional District Munsif,
Jayankondam.

Petitioner side Witnesses and Exhibits:- Nil

Respondent side Witnesses and Exhibits:- Nil

Additional District Munsif,
Jayankondam.