

**IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE
AT CHENGALPATTU**

Present: Tmt.K.Kayathri, M.A.B.L.
Additional District Judge,
Chengalpattu.

Monday, the 3rd day of June 2024
I.A.No.3/2022 in O.S.No.77/2015
CNR No:TNKP01-000308-2015

Manokaran

...Petitioner/ plaintiff

-Vs-

1. Haridoss

2.Venkatasamy

3.Nagaraj

4.Sekar

5.Latha

6.Kuttyammal @ Usha

7.Smt. Ramani

8. Parthasarathy

9.Ravichandran

10. Smt.Jayanthi Ravichandran

...Respondents/Defendants

This Petition coming before this court on 17.4.2024 for final hearing in the presence of Thiru. S. Balamurugan, Counsel for the Petitioner/Plaintiff and Respondents.1 to 4 and 8 were called absent and set exparte and Respondents.5 to 7 remained exparte in the suit and M/s.Joel, M.Sathishkumar and S.Gobinath, Counsels for the Respondents.9 and 10 and upon hearing the arguments of both sides and perusing the entire case records and having stood over for consideration till this day, this Court delivered the following:-

ORDER

This Petition is filed Under Order.6, Rule.17 and Sec. 151 of CPC to permit the petitioner /Plaintiff to implead the survey numbers in the schedule of property of the plaint and to amend the particulars of Amendment as detailed in the petition.

2. The petition averments in brief as follows:-

The Petitioner/plaintiff has filed the suit for partition and separate possession with respect to 1/8th share of the suit property. At the time of filing of suit all the properties of his father were included and though the petitioner has signed the suit papers, he did not read the contents of the suit since he studied only 4th standard and he was not able to read and write English language and then the case was posted periodically and is in Trial. In the mean time, the 8th defendant had filed suit against the petitioner and others before District Munsif Court, Chengalpattu in O.S.No.84/2019 for permanent injunction based on the alleged forged and fraudulent and sham and nominal sale deed by the 9th defendant, based on the alleged and forged power deed 1268/2006 on 14.09.2006 on the file of SRO Padappai, to the 8th defendant on 30.03.2007 under registered deed No.4507/2007 on the file of JSRO II, Chengalpattu and then only the petitioner learnt that the sale deed and its property. Hence the petition to amend the suit by way of adding the schedule of properties and for declaration to declare the alleged sale deed of the 8th defendant as null and void. If the petition is not allowed, the petitioner will lose the share in the properties of the alleged sale deed of 8th defendant which are the properties of his father Loganathan. The petitioner has got good case on merits.

Hence the petition to permit the petitioner to add the (i) S.No. 93/1 measuring 55 cents (ii) S.No. 99 measuring 84 cents (iii) old S.No. 102/2 and now sub divided as S.No. 102/2B measuring 90 cents, are all situated at Ammanampakkam Village, Chengalpattu Taluk in the schedule of property of the plaint, (ii) to add one more prayer in the prayer column of the plaint as if " to declare the alleged sale deed by the

9th defendant, based on the alleged forged and fraudulent Power deed its No.1268/2006 on 14.09.2006 on the file of SRO Padappai, to the 8th defendant on 30.03.2007 under registered deed No.4507/2007 on the file of JSRO II, Chengalpattu is null and void and the same will not bind upon the share of petitioner.

3. Brief of Counter averments filed by 9th Respondent and adopted by 10th Respondent:-

The respondents deny entire averments made in the affidavit filed in support of the petition except those that are specifically admitted herein. The suit was filed for partition of the suit properties and for separate possession in respect of the share of plaintiff and is pending for trial. In the meantime, the present petition was filed only to drag on the proceedings and is liable to be dismissed as devoid of merits and not maintainable either on the facts or on Law. Filing a suit by signing the papers without reading the papers had caused great prejudice and cost the precious time of this court. No where in the plaint filed it is stated that the contents of the plaint was read over and explained to the plaintiff in the language known to him, which means without knowing the purpose of the suit filed, the petitioner had filed this frivolous suit. Even the present petition was filed in English Language and nowhere it is stated that the contents of the affidavit was read over and explained to the petitioner in the Language known to him. The suit referred as O.S. No. 84 of 2019 has nothing to do with this respondent and concerned about other property. However the suit was dismissed for default by order dated 10.10.2022. Under the above said circumstances, the petition is liable to be dismissed.

4. The respondents.1 to 8 remained exparte.

5. The points for Consideration :

1. Whether the petition is to be allowed or not?

6. Points:-

Heard and perused the records. This petition filed for amendment of suit regarding implead the Survey Numbers in the schedule of property and amend the said details in the plaint.

The petitioner contended that the 8th defendant had filed a suit against the petitioner and others before District Munsif Court, Chengalpattu in O.S.No.84/2019 for permanent injunction based on alleged forged and sham and nominal sale deed by the 9th defendant based on the forged power deed dated 14.9.2006 to the 8th defendant on 30.3.2007. It is argued that, after knowing the filing of the above suit only, the petitioner have knowledge about the sale deed and its property and thus, it is necessary to add the schedule of property and for declaration to declare the alleged sale deed of the 8th defendant as null and void and thus prayed to allow the petition.

The 9th and 10th respondents have contended that the present petition is filed only to protract the suit proceedings and there is no merit in this petition and prays to dismiss the petition.

Considering the rival submissions, this court finds that the suit for partition and separate possession of petitioner's share in the suit property. Therefore, the suit cannot be suffered for partial partition. Hence, this court is intended to allow the amendment of suit schedule of property as alleged in the petition and no prejudice will be caused to the petitioner by allowing this petition.

Finally, the petition is allowed. No costs.

Dictated by me to the Stenographer and directly typed by her in the Desktop, corrected and pronounced by me in open Court this **the 3rd day of June.2024.**

sd/-K.Kayathri

Additional District & Sessions Judge
Chengalpattu.

Exhibits and Witnesses on either side:- Nil

sd/-K.Kayathri

Additional District & Sessions Judge
Chengalpattu.

Draft/Fair Order
I. A. No.3/2022 in
O.S.No.77/2015
Dated : 3.6.2024
ADJ/CPT

**I. A.No.3/2022 in
OS No.77/2015
Dated:3.6.2024**

Order Passed

**Finally, the petition is
allowed. No costs.**

ADJ/CPT