

**IN THE COURT OF SUBORDINATE JUDGE,
MADURANTAKAM.**

**Present: Mr. T. GANESH, B.A., B.L.,
Subordinate Judge,
Madurantakam.**

**Friday, this 30th day of January, 2026
E.A.No. 1/2025
in
E.P No. 20/2009
in
O.S No. 37/2006
(CNR.No.TNCG13 – 000071-2009)**

M.Harikrishnan ...Petitioner/Petitioner/Decree Holder
..Vs..

1. M. Elumalai

2. N. Harikrishnan

... Respondents/Respondents/Judgment Debtor

This petition coming up for final hearing on 09.01.2026 in the presence of Mr.M.Tamilmaran, Counsel for Petitioner/Petitioner/Decree Holder and Mr.R.S.Ranganathan, counsel for 1st respondent/respondent/judgment debtor and Mr.V.Agoram, Counsel for the 2nd respondent/respondent/judgment debtor and 1st respondent/respondent/judgment debtor was called absent and set exparte and having heard the arguments on both sides and having perused the records, having stood over for the consideration of this court till date, this court delivered the following;

ORDER

This petition is filed by the petitioner under Order VI Rule 17 of Civil Procedure Code to amend the E.P.

2. Petition in brief:

Petitioner filed the suit in respect of the Old S.No.71/5 as two items and extent of 800 Sq.ft and 1440 Sq.ft total extent of 2240 Sq.ft for specific performance as against the respondents/defendants. After due trial the said specific performance suit was decreed on 01.04.2009 and the said judgment and decree become final as the dispute went upto Hon'ble High Court for second appeal. This court directed the petitioner to file a draft sale deed before this court and the same was also filed. Now the said suit S.No.71/5 has been subdivided as S.No. 71/5A1A1A for the above two items. Hence petitioner had filed this amendment application to amend the execution petition to include the New S.No. 75/5A1A1A as detailed in the petition.

Old S.No.71/5A owned by Mr.Rajendran with a larger extent, out of which an extent of 2240 as two items (suit property) purchased by 1strespondent Elumalai under the Sale deed dated 25.06.2001 (Doc.No.486/2001) for valid consideration. The encumbrance certificate would reveal the same. 1st Respondent entered into a Sale Agreement to sell the suit property to the petitioner under the Sale Agreement dated 27.03.2006. Based upon the Sale Agreement petitioner had filed the above suit for specific performance and up to High Court succeeded as mentioned above. The said Rajendran is vendor of 1st respondent. Now the suit property is subdivided as S.No. 71/5A1A1A in the name of the said Rajendran. Rajendran owned larger extent in the old Suit S.No. 71/5 and he has sold the same to the 3rd parties, that is why the suit old Survey number subdivided as so many subdivisions and the present suit property survey number subdivided as S.No. 71/5A1A1A in the name of

Rajendran. The present computer Patta in favour of Rajendran under Patta No. 131. Perusal of the computer Patta the subdivision was effected on 27.03.2024. Now as per new registration rules online proceedings for registration the present subdivision number to be mentioned and to be inserted at the time of online registration. Hence the present suit property need to be mentioned New subdivision S.No. 71/5A1A1A as mentioned in the amendment application. Hence the petitioner files this application for amendment.

3. Counter of 2nd respondent in brief:

The respondent denies all the above said averments set out in affidavit and the petition to amend the EP and the Plaint is not at all maintainable in law and on facts. The amendment sought at this stage is not maintainable in law. The Sub-division is long back. There is no correlation of the suit property. The S.No. 71/5A1A total extent of 0.02.80 i.e. Ac.0.07 cents. He has no right over the Total extent in S.No.0.07 cents. The amendment petition is filed without any demarcation. There are excess of land in the sub-division. Without Elumalai getting sub-division, the execution petition is not executable. By means of amending the sub-division, there is excess of land which was not been in property mentioned in the execution petition. The sub-division took place long back. The alleged amendment is not at all maintainable in law. The decree is inexecutable. No sale deed could be executed for new survey number. It should have been in the name of Elumalai. The alleged sub-division also incorrect. In order to overcome the mistake the petitioner filed the application to amend the survey number. Hence, the petition is not at all maintainable in law. Hence this petition is liable to be dismissed.

4. Though the 1st respondent entered appearance through his counsel, he failed to file counter and hence he was called absent and set exparte.

5. No oral or documentary evidence adduced by both parties.

6. Heard both sides and perused the records.

7. Point:

“Whether this application can be allowed?”

This petition has been filed under Order VI Rule 17 of the Code of Civil Procedure seeking amendment of the Execution Petition by incorporating the new sub-division survey number in respect of the suit property.

The case of the petitioner is that the decree for specific performance has attained finality up to the Hon’ble High Court and during the course of execution proceedings, it came to light that the old Survey No.71/5, in which the suit property was described, has subsequently been subdivided and the present suit property is now assigned New Survey No.71/5A1A1A. It is further contended that due to the introduction of online registration procedures, mentioning of the correct and updated survey number has become mandatory for execution and registration of the sale deed. Hence, according to the petitioner, the proposed amendment is only formal in nature, intended to reflect the present revenue records, and does not alter the identity, extent or nature of the suit property already decreed.

Per contra, the 2nd respondent has strongly opposed the amendment contending that the application is not maintainable either in law or on facts. It is the specific objection of the 2nd respondent that the subdivision had taken place long prior and there is no proper correlation established between the suit property and the new survey number sought to be included. It is further alleged that there is excess land in the subdivision, that there is no demarcation, and that the decree is inexecutable since the subdivision is not in the name of the judgment debtor. According to the 2nd respondent, by seeking amendment at the execution stage, the petitioner is attempting to introduce a new property and overcome inherent defects in the decree, which is impermissible.

It is not in dispute that the suit for specific performance filed by the petitioner was decreed on 01.04.2009 and that the said decree has been confirmed by the appellate court as well as by the Hon'ble High Court, thereby attaining finality. The execution proceedings are only a continuation of the original proceedings and the executing court cannot go behind the decree. At the same time, it is well settled that amendments which are necessary for the purpose of proper execution of the decree and which do not change the substance of the decree or enlarge its scope, can be permitted even at the execution stage.

A careful perusal of the pleadings would show that the petitioner is not seeking to alter the extent, boundaries or identity of the suit property, but only seeks to incorporate the new subdivision number assigned to the very same property due to subsequent revenue proceedings. The amendment sought appears to be consequential in nature, necessitated by the subdivision effected by the revenue authorities and the present requirements under the registration rules. The objections raised by the 2nd respondent regarding excess land and correlation are matters which cannot, at this stage, be construed as affecting the finality of the decree, especially when the decree itself is for a specific extent and property.

Further, the contention that no sale deed can be executed for the new survey number cannot be accepted outright, as the amendment is sought precisely to bring the execution proceedings in conformity with the present revenue records. Whether the subdivision is in the name of the vendor or otherwise cannot defeat the rights flowing from a decree for specific performance that has reached finality.

Therefore, this Court is of the considered view that the amendment sought is only to correctly describe the suit property in accordance with the

present survey records and to facilitate effective execution of the decree, and that it does not cause any prejudice to the respondents nor does it amount to introducing a new case or new property. The objections raised by the 2nd respondent do not outweigh the necessity of the amendment for proper execution of the decree. So, there is no bar to allow this application. Hence this point is decided accordingly.

8. Result:

In fine this application is allowed. No costs.

Directly typed in my personal lap-top, corrected and pronounced by me in the open court, this 30th day of January, 2026.

Subordinate Judge,
Madurantakam.

Both sides Evidence and Exhibits: Nil

Subordinate Judge,
Madurantakam.

Fair / Draft order
E.A No. 1/2025
in
E.P No. 20/2009
D.D: 30.01.2026
Subcourt,
Madurantakam