

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

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

**Monday, this 22nd day of September 2025
I.A.No. 4/2025
in
O.S.No. 2/2010
(CNR.No.TNCG13 – 000112-2010)**

1. Manamalli (Died)
2. Gomathi
3. D. Gajalakshmi
4. Mageshwari
5. Seethalakshmi
6. Arumugham
7. Ashika

...Petitioners/Plaintiffs 1 to 7

..Vs..

1. Veerammal (Died)
2. Kuppuswamy
3. Gunasekar
4. Krishnaveni
5. Elangovan
6. V.E. Mathiyazhagan
7. E. Kantha

...Respondents 1 to 5/Defendants

8. E. Maheswari

9. Jegathsandar

10. Rajendraprasad

...Respondents 6 to 10/Proposed Defendants 6 to 10

This petition coming up for final hearing on 04.09.2025 in the presence of Mr.S.Senthilkumaran, Counsel for petitioners/plaintiffs and Respondents 1 and 8 are died and Mr.M.Nadarajan and E.Sivalingam, Counsels for the respondents 3, 5, 9 and 10/defendants 3, 5, 9 and 10 and Mr.B.Rajesh, counsel for 2nd respondent/defendant Mr. Mohan, counsel for 4th respondent/defendant and respondents 6 and 7 are called absent and set exparte in main suit 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 plaint.

2. Petition in brief:

Already the petitioners filed an application to amend the plaint in I.A 2/2025 to delete some of the suit items. In lieu of the same the plaint ought to be amended in respect of the alleged deletion of properties. Hence this petition.

3.Counter of 5th Respondent and adopted by Respondents 3, 9 and 10 in brief:

The respondent denies the allegations in the affidavit. The present petition has been filed by the petitioners/plaintiffs only to cause unnecessary harassment and financial loss to the respondents/defendants. Hence, the petition is liable to be dismissed at the threshold as being legally and factually unsustainable.

The suit property was already partitioned in October 1998 among defendants/respondents 2 to 5. The “A” schedule property fell to the share of the 2nd

respondent, the “B” schedule property fell to the share of the 3rd respondent, and the “C” schedule property fell to the share of the 5th respondent. Now, the petitioners/plaintiffs have filed the main suit in O.S. No. 2/2010 seeking partition again.

In the present interlocutory application No. 4/2025, the plaintiffs state in their affidavit and petition that the present counsel conducting the case and the previous counsel who handled the case had wrongly mentioned the allotment of shares of the defendants in the plaint, and that the same must now be corrected. This petition and affidavit are legally and factually untenable. In fact, the present counsel himself has already made corrections in the plaint regarding the allotment of shares of the plaintiffs and defendants. Moreover, the plaint has already been amended multiple times by the petitioners/plaintiffs.

Plaintiffs now seek to carry out deletions in several places in the plaint and to add new words specifically, in paragraph 3 at line 3; in paragraph 4 at lines 6, 7, 9, 11, and 12; and again in paragraph 4 at lines 5, 8, and 12. Thus, instead of proceeding with the conduct of the suit, the petitioners/plaintiffs are repeatedly filing interlocutory applications only to amend the plaint. Therefore, the present petition has been filed without any right or valid reason, and on false grounds, and hence this petition is liable to be dismissed.

4. No oral or documentary evidence adduced by petitioner and respondent.
5. Heard both sides and perused the records.

6. Point:

“Whether this application can be allowed?”

The petition has been filed under Order VI Rule 17 CPC by the plaintiffs seeking to amend the plaint. It is the case of the petitioners that already an application for amendment was filed and allowed in respect of deletion of certain items and the

same was allowed. But the corresponding deletion not made out in the body of the plaint and hence this petition.

On the other hand, the respondents oppose the application, contending that the plaint has already been amended on earlier occasions and repeated amendments are not maintainable. It is their case that the suit properties were already partitioned in October 1998 among defendants 2 to 5, and the plaintiffs have again filed the present suit seeking partition. According to them, the present petition is only intended to delay the proceedings and to harass the respondents.

It is well settled that amendment of pleadings should be allowed if it is necessary for the purpose of determining the real questions in controversy between the parties. Technical objections should not come in the way of advancing substantial justice, so long as the proposed amendment does not fundamentally alter the nature of the suit or cause irreparable prejudice to the opposite party. The Court must also ensure that sufficient opportunity is given to the respondents to meet the amended pleadings.

In the present case, the amendment sought is essentially to correct certain mistakes in the body of the plaint in respect of deletion of certain items earlier by way of I.A 2/2025. The amendment neither changes the fundamental character of the suit for partition nor introduces a wholly new cause of action. It only correct the pleadings in respect of the deleted items of the suit properties earlier. The explanation given by the petitioner that the mistakes were realized only at a later stage is plausible. On the other hand, any prejudice apprehended by the respondents can be adequately safeguarded by affording them liberty to file additional written statements, if necessary. Further it is pertinent to note that the alleged amendment is pre trial and that liberal approach to be made. Accordingly, this Court is of the considered view that the amendment sought is bona fide, necessary for a proper adjudication of the issues, and does not cause any irreparable prejudice to the respondents. Considering

the case pending for more than 25 years, this court incline to allow this application by imposing costs. Hence this point is decided accordingly.

8. Result:

In fine this application is allowed on conditions that,

i) the petitioner shall pay a sum of Rs. 1000.00 (Rupees One Thousand) only to the contesting respondents herein on or before 06.10.2025 and

ii) the petitioner shall be ready with the amended copy of the plaint on 07.10.2025. call on 07.10.2025.

Directly typed in my personal lap-top, corrected and pronounced by me in the open court, this 22nd day of September 2025.

Subordinate Judge,
Madurantakam.

I. Petitioner side evidence and Exhibits: Nil

II. Respondent side Evidence and Exhibits: Nil

Subordinate Judge,
Madurantakam.

**Fair / Draft order
IA No. 4/2025
in
OS No. 2/2010
D.D: 22.09.2025,
Subcourt,
Madurantakam**