

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

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

**Friday, this 04th day of July 2025
I.A.No. 2/2025
in
O.S.No. 75/2018
(CNR.No.TNCG13000269-2018)**

Rev.Fr.S.Shylock Stephen,
The Administrator of Properties,
Diocese of Chengalpattu.

... Petitioner/Plaintiff

..Vs..

1. R. Ramgopal
2. S. Anthony
3. The Sub Registrar,
Madhuranthakam.
4. The Inspector of General of Registration,
Santhome High Road, Mylapore,
Chennai.

... Respondents/Defendants

This petition coming up for final hearing on 19.06.2025 in the presence of Mr.R.E.Charles, Counsel for the petitioner/plaintiff and Mr.V.Agoram, counsel for 2ndrespondent/ 2nddefendant and respondents/defendants 1, 3 and 4 set exparte in main suit, after hearing the arguments on both sides and upon perusing 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:

Petitioner is the Diocese of Chengalpattu and was examined as PW1 in the above case and now the suit posted for further evidence. In the prayer column in para No.10 (1) at the end of the 1st relief column, it has been mentioned "... and enjoyment of the "B" schedule property". It is not mentioned in the schedule of property of the plaint that there is a separate "A" and "B" schedule properties. Hence, the very word "B" which falls in between the suit... and schedule property is to be removed. The said amendment does not change the nature of suit and cause of action in the above suit. Hence, the above typographical error which is very minor is to be deleted by way of amendment. If the petition is not allowed, petitioner will be put to great loss and damage. On the other hand, no hardship is caused to other side to allow this application. Hence, the petitioner files this petition for amendment.

3. Counter of 2nd respondent in brief:

The respondent denies the allegations set out in the affidavit. The typical error it is not a bonafide reason. Issues already framed, trial commenced and the petitioners also examined two witnesses namely Pw1 and Pw2. Respondent also cross examined them elaborately. Thereafter the case was posted for plaintiff side further evidence. At this stage this petition it's not maintainable in law and fact. At the time of cross examination of Pw1, a specific question relating to the present amendment petition was put. After cross examination of Pw1, the petitioner/plaintiff didn't take any steps to amend the plaint. Order VI Rule 17 C.P.C says " it allows a court to permit either party to alter or amend

their pleading at any stage of the proceedings, provided it is necessary to determine the real question in controversy between the parties. However, an amendment application can't be entertained after the trial has commenced, unless the court is satisfied that the amendment could not have been made earlier despite due diligence". Hence as per provision this amendment application is not maintainable after the trial has commenced.

As per plaintiff pleadings in para No. 5, the suit property was purchased under the above said sale deed for an extent of 0.30 cents. Immediately, after the purchase the suit property was put in to possession by the then parish priest of the said church at Thatchur to an extent of 32 cent by annexing 0.02 cents of poorampoku land on the south of the suit survey No. 296 /3 as " anadai pulam" and later after some time the possession of to suit property was handed over to Rev. sisters of St. Joseph's convent under oral permission and the suit property was annexed with the other properties owned by the nuns (Rev, sisters of St. Joseph's convent) at Thatchur village.

As per plaintiff pleadings the plaintiff can't have no locus standi to file the suit. Patta land and poramboke land can't be mentioned as separate properties in plaintiff. Plaintiff filed the suit for declaration of title entire property of patta land 0.30 cents and poramboke land 0.02 cents. Hence the present application for amendment of prayer is not maintainable law and fact. Plaintiff can't able to establish in plaintiff that how he seeks the relief of declaration of title to poramboke property of 0.02 cents. Petitioner/ plaintiff can't have right to declare their title to poramboke property. Hence now the present application to amend the prayer will change the nature of the case and will create new cause of action. Hence the amendment is not maintainable.

Suit is of the year 2018. Now only the petitioner/plaintiff files the amendment application based upon the reason of typographical error, which is

not maintainable and it can't ensure the real question in controversy between the parties. Hence the present application is not maintainable law and fact. The petitioner/plaintiff can't take any steps for the past 7 years to amend the plaint. Hence this petition is liable to be dismissed with cost.

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

6. Point:

“Whether this application can be allowed?”

The petitioner has filed the present application under Order VI Rule 17 of the Code of Civil Procedure seeking to amend the plaint by deleting the term “B” occurring in the prayer portion, specifically in paragraph 10(1), where the relief column reads “...and enjoyment of the ‘B’ schedule property.”

It is the case of the petitioner/plaintiff that the use of the word "B" before the word “schedule” is a typographical error, as there is no distinction in the plaint regarding any “A” or “B” schedule properties. The plaintiff submits that such an amendment is minor in nature, does not alter the nature of the suit or the cause of action, and is necessary for the proper adjudication of the matter.

The respondent/defendant has strongly opposed the petition, contending that the amendment is not bonafide and is sought at a belated stage, after the commencement of trial. The respondent points out that issues have already been framed, trial has commenced, and PW1 has been extensively cross-examined. It is further submitted that the questions relating to the description and identification of the property, including the portion of poramboke land, were put to PW1 during cross-examination. Hence, the respondent asserts that the plaintiff was aware of the alleged defect and failed to take timely steps to amend the plaint, which disentitles it from seeking amendment at this stage.

It is settled law that under Order VI Rule 17 CPC, amendments to pleadings may be allowed at any stage of the proceedings if the amendment is necessary for determining the real question in controversy. However, the proviso to Rule 17 stipulates that no amendment shall be allowed after the commencement of trial unless the Court comes to the conclusion that, in spite of due diligence, the party could not have raised the matter before the commencement of trial.

In the present case, it is not disputed that trial has commenced. PW1 has already been examined-in-chief and cross-examined. The petitioner seeks to delete the word “B” from the prayer clause on the ground that the reference to “B Schedule” is erroneous, as there is no “B Schedule” annexed or referred to in the plaint. The amendment is thus stated to be clarification in nature and does not introduce any new relief or change in the cause of action.

On a careful perusal of the plaint and the relief portion, it appears that the reference to "B" schedule property is indeed not supported by any corresponding schedule or annexure, and may cause confusion in understanding the relief sought. The proposed amendment merely seeks to align the relief portion with the existing pleadings and documents and appears to be a rectification of an inadvertent mistake. Even this court can't able to deliver judgment and draft decree, as there is no such B-schedule mentioned in the suit. As rightly pointed out by the petitioner there is only one schedule of property in the suit.

As regards the delay in seeking amendment, while the petition is filed belatedly after several years and after commencement of trial, it must also be considered whether the proposed amendment would prejudice the other side or introduce a new case. In the instant case, the deletion of the letter “B” does not alter the foundation of the suit, nor does it introduce any new facts or legal

grounds. The respondent has not demonstrated how such a minor amendment would cause prejudice that cannot be compensated in terms of costs.

In light of the above, and in view of the fact that the amendment sought is limited to correcting an apparent typographical error and would avoid confusion at the stage of final adjudication, this Court is satisfied that allowing the amendment will not cause injustice or prejudice to the defendant and is necessary for the proper and complete adjudication of the suit. However, considering the delay and stage at which the amendment is sought, this Court deems it appropriate to impose costs on the petitioner to balance the equities. Hence this point is decided accordingly.

8. Result:-

In the result this application is allowed on condition that the petitioner shall pay a sum of Rs. 3000.00 (Rupees Three Thousands) only to the 2nd respondent on or before 11.07.2025. call on 14.07.2025.

Directly typed in my personal lap-top, corrected and pronounced by me in the open court, this 04th day of July 2025.

Subordinate Judge,
Madurantakam.

Both sides evidence and Exhibits :
Nil.

Subordinate Judge,
Madurantakam.

DRAFT/FAIR ORDER
I.A No. 2/2025
in
O.S No. 75/2018
D.D: 04.07.2025
SUB COURT,
MADURANTAKAM