

IN THE COURT OF THE DISTRICT MUNSIF AT MADURANTAKAM

PRESENT: Tmt. V. Devapriya, B.Sc.,M.L.,
District Munsif, Madurantakam
Friday, the 21st day of March, 2025

I.A.No.9/2024
in
O.S.No.83/2020

Jeevapriya

...Petitioner/Plaintiff

-vs-

1. Elumalai
2. The Sub Registrar,
Acharapakkam

...Respondents/Defendants

This petition coming up before me on 04.03.2025 for final hearing in the presence of, Thiru.B.Rajesh, counsel for the Petitioner/Plaintiff and ThiruV.Agoram, counsel for the 1st Respondent/1st Defendant and 2nd Respondent/2nd Defendant having been set exparte in the main suit and after hearing the arguments on both sides and upon perusing the materials placed on record, and having stood over for consideration till this day, this court delivers the following,

ORDER

This petition has been filed by the Petitioner/Plaintiff under Order VI Rule 17 of Code of Civil Procedure, to amend the plaint.

2.The averments stated in the petition, in brief :

The Petitioner/Plaintiff had filed the above suit for mandatory injunction against the Respondents/Defendants. At the time of filing the above suit, by over sight the

boundaries of the suit property and description of the well, 3 H.P. motor pump set and EB service connection did not mentioned in the plaint. After commencement of trial proceedings alone, the Petitioner/Plaintiff came to know that the boundaries of the suit property are omitted in the plaint. In the above circumstances, it is highly essential to amend the plaint by adding the boundaries of the suit property in the plaint schedule as detailed in the petition schedule to prove his case. The balance of convenience is only in his favour. Therefore it is necessary to amend the plaint. Hence this petition.

3.The averments stated in the counter filed by the Respondent/Defendant, in brief:

This petition is not maintainable in law and on facts. The averments in the affidavit are false. The Petitioner/Plaintiff had filed the above case by stating false information. In the above case, the trial was commenced and the PW1 was already partly cross examined. Hence at the present stage, this petition is not maintainable. The Petitioner/Plaintiff add the properties and boundaries and introduced new case. After the trial, the amendment cannot be allowed, if they introduce a new and inconsistent case or change the fundamental character of the suit. Hence this petition is liable to be dismissed with costs.

4. The point for determination is whether this petition is to be allowed or not?
5. No Exhibits marked and no witnesses were examined on both sides.
6. Heard both sides and perused the records.

7. The Petitioner/Plaintiff had filed this petition to amend the plaint in the above suit for incorporating boundaries of the suit property. The 1st Respondent/1st Defendant resisted the petition stating that the amendment cannot be done at this stage of cross examination of PW1.

8. Perusal of records show that the Petitioner/Plaintiff had filed the above suit for mandatory injunction to execute rectification deed in respect of the survey number of the suit property. According to the Petitioner/Plaintiff the correct survey number is 82/2C2 to an extent of 0.98 cents and however in her sale deed, the survey number was wrongly mentioned as 82/2C1. Therefore, this court opines that mentioning of the boundaries of the suit property is essential to identify the suit property and its survey number so as to resolve the dispute in the above suit.

9. The above suit is in the stage of cross examination of PW1 and the same was not yet completed. Hence no prejudice will be caused to the 1st Respondent/1st Defendant. Therefore following the guidelines laid down by the Honourable Supreme Court in the case of *Life Insurance Corporation Vs. Sanjeev Builders Private Limited* [2022 SCC Online SC 1128], and for the foregoing reasons, this court is inclined to allow this petition on costs.

10. In the result, this petition is allowed on cost of Rs.500/- to be paid by the Petitioner/Plaintiff to 1st Respondent/1st Defendant on or before 28.03.2025, failing which, this petition will be automatically dismissed. Call on 28.03.2025.

Dictated to the Stenographer, typed by her, corrected and pronounced by me in open court on this the 21st day of March, 2025

District Munsif
Madurantakam.

Petitioner side witnesses and documents:

Nil

Respondents side witnesses and documents:

Nil

District Munsif
Madurantakam.