

IN THE COURT OF THE DISTRICT MUNSIF , PALANI

Present: Selvi. S. Apoorva, BA., LLB.,

District Munsif, Palani.

Dated this 1st day of September 2025, Monday

I.S.No.6/2025

in

O.S.No.85/2022

Ajeesul Rahman

....Petitioner/Plaintiff

....Vs....

Rafeek Ahamed

....Respondent/Defendants

This petition came before me for final hearing on 25.08.2025 in the presence of **Thiru.A.Abdul Hameed**, Learned Counsel for the petitioner/plaintiff, **Thiru.V.Rajamanikkam**, Learned Counsel for the defendant, upon hearing both the sides and upon perusal of records and stood over for consideration till this day, this court delivers the following:

ORDER

This petition has been filed by the petitioner under Order VI rule 17 and Section 151 of Civil Procedure Code to amend the plaint as mentioned in the petition.

2. The Averments of the petition:

2.1. The petitioner herein is the plaintiff in the suit. He submits that he filed a Suit for Mandatory Injunction to direct the defendant to form near common west to east pathway on the northern side of the Respondent's house after removing the 78 feet length 3 feet width compound wall which run from west to east in total to an extent of 228 Sq, feet as mentioned in the 'C' Schedule of Suit property to reach his

'B' schedule suit property and for Permanent Injunction by restraining the Respondent/Defendant from any way preventing him from using the west to east common pathway which is situated in the 'A' schedule of the suit property to reach his property and for other relief. Further he submits that, In the above suit, he have to seek the relief of declaration, in respect of 'C' schedule of the suit property that belongs to both petitioner and the respondent/defendant herein. He states that his previous counsel mistakenly filed the above suit without seeking declaration relief in respect of the 'C' schedule suit property. Hence, he filed this petition to amend the plaint to seek the relief of declaration.

3. The Averments in the counter:

3.1. The Respondent submits that the petitioner has only right to withdraw the case and file a fresh suit and he has no right to amend the plaint. The reason for this petition by blaming the previous counsel is not satisfactory, he must prove through him. Further he states that written statement has been filed on 22.09.2022 and in 2nd para of the written statement, it was clearly stated that the relief of Mandatory Injunction and Permanent Injunction cannot be asked without asking for a relief of Declaration. After 3 years from the date of filing of written statement, the petitioner filed this petition which is not maintainable and the petitioner is liable to state the reason for delay in filing this petition. Since I.A.3/2025 has been closed by this court and the main suit is posted for trial on 28.03.2025 and further hearings on 07.04.2025, 12.06.2025 and 26.06.2025, the petitioner is not ready to conduct the trial and came up with this petition to delay the proceedings. Hence, this petition may be dismissed with costs.

4. No and Oral and Documentary evidence adduced on both the sides.

5. Points for Consideration:

Whether this Petition filed under Order VI Rule 17 and Section 151 of CPC to amend the plaint is liable to be allowed or not?

6. Discussion and Decision:

6.1. Heard both sides and records perused.

6.2. On perusal of case records, the petitioner/plaintiff filed this petition seeking to amend the prayer portion of the plaint. The main suit is filed by the petitioner/plaintiff for the relief of Mandatory Injunction and permanent injunction and for the costs of the suit. The Issues were framed on 10.10.2022 and suit is pending at the stage to begin the trial and now the petitioner filed this petition to amend the plaint by including the relief of declaration.

6.3. The Following essence of the provision is to be looked into in order to seek to amend the pleadings under Order VI rule 17 of CPC, which holds that, Amendment of pleading can be allowed at any stage in the legal proceedings, the Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties and no application for amendment shall be allowed after the trial has commenced, 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. As contended by the petitioner that the prayer in the plaint is amended to seek the relief of declaration with respect to the 'C' schedule of the suit property that belongs to both the petitioner and the respondent. Considering the facts and circumstances of the case, to avoid the multiplicity of the litigations, In order to determine the actual dispute between the parties and for the ends of justice, this court is of the view that allowing this petition would be justiciable in nature.

7. In the result, this petition is allowed. No cost.

Dictated to the steno-typist directly and computerized and printed by her and pronounced by me in the open court on this the 1st day of September 2025.

**District Munsif,
Palani.**

Petitioner side witnesses:Nil

Petitioner side documents:Nil

Respondant side witnesses:Nil

Respondant side documents:Nil

**District Munsif,
Palani.**