

IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE, DHARMAPURI

Present: Tmt.U.Monica,M.L.,
Additional District Judge,
Dharmapuri.

Friday, this the 7th day of February 2025

I.A.No.7/2024
in
O.S.No.111/2020

P.Saravanakumar

...Petitioner/Plaintiff

/versus/

1.Sivakumar
2.Chinnasamy
3.Ganesan
4.Branch Manager
Optus Value Housing Finance
India Ltd.
5.Regional Manager
Optus Value Housing Finance
India Ltd.
6.Parameshwari
7.Silambarasan

... Respondents / Defendants

This petition is coming on 6.2.2025 for final hearing before me in presence of Thiru.G.Rajivgandhi, Advocate for petitioner and Thiru.G.Selvam, Advocate for the first defendant, Thiru.A.Sivaraju, Advocate for second defendant, Thiru.M.PArumugam, Advocate for sixth and seventh defendants, fourth and fifth defendants called absent and set exparte and upon hearing both side arguments and on perusal of the entire case

records and having stood over till this day, this court pronounced the following:

ORDER

This petition has been filed under Order-6, Rule-17 and section 151 CPC to amend the plaint.

2. The averments in the petition in brief is as follows:

The case which was posted for Judgment on 14.10.2024 by this court was suo moto reopened for clarification as to schedule of properties. When the petitioner perused the plaint and the property documents, he came to know that, at the timing of filing of the suit, he has not mentioned the entire details of suit properties, has mentioned his share alone with its valuation, he has not stated the correct court fee and there is also certain typographical error in the plaint. Further in respect of forged sale deed in name of the 3rd defendant, he has to seek declaration and pay additional court fee for that. Due to his negligence, the above mistakes have happened. Hence the plaint has to be amended. The proposed amendment will not change the nature of the suit or cause of action of the suit. Hence the amendment has to be allowed.

3. The averments in the counter of respondents 1 and 2 in brief is as follows:

The petition has been filed with malafide intention, when the case is in the argument stage. He ought to have filed this amendment earlier. He has not chosen to seek the declaration of sale deed as null and void even though he has mentioned about the sale deed in his plaint, the proposed amendment will change the nature of the

partition suit. The petitioner has not even paid appropriate court fee and the extent of the suit properties has not been clearly mentioned. There is no merits in the petition. Hence the petition is liable to be dismissed.

4. The point for consideration:

Whether the petition is to be allowed or not?

5. Heard both side. No oral evidence have been adduced on either side.

6. Point:

6.1) The petitioner alleges that plaint has to amended in respect of the schedule of the suit properties, court fee valuation, certain typographical errors and for declaration of sale deed in the name of third defendant as null and void.

6.2) The respondent resisted the petition by contending that the petition has been filed with mala fide intention and proposed amendment will change the nature of the suit and it has been filed at a belated stage and liable to be dismissed.

6.3) This is a suit for partition and connected reliefs. Respondents have remained exparte in the main suit.

6.4) The petitioner alleges that due to inadvertence, mistakes have crept in the description of schedule of properties, valuation column and there are also certain typographical error and declaration of sale deed as null and void has to be sought in this case.

6.5) The only contention of the respondent is that, it has been filed at belated stage. The respondents are remained exparte and not even filed written statement. This

court is the view that petitioner has to be provided an opportunity to prove his case by allowing this petition. The proposed amendment will not in any way change the nature of the suit or the cause and action of the suit. The proposed amendment will not in any way give advantage to the petitioner has the petitioner has to prove the amendment. Hence in the interest of justice, to provide the petitioner an opportunity to prove the case and prevent multiplicity of the proceedings, this court is of the view that petition has to be allowed.

In the result, petition is allowed. Both parties are directed to bear their own costs.

Dictated by me, typed by the Steno-typist, corrected and pronounced by me in Open Court on this the 7th day of February 2025.

Additional District Judge,
Dharmapuri.

Petitioners Side witness, Exhibits: Nil
Respondents Side witness, Exhibits: Nil

Additional District Judge,
Dharmapuri.

Fair Order
I.A.No.7/2024 in
O.S.No.111/2020
Dated:7.2.2025.