

IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE, DHARM

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

Wednesday, this the 9th day of April 2025

I.A.No.3/2024
in
O.S.No.262/2022

P.Murugesan

...Petitioner/Plaintiff

/versus/

1.O.K.S Kumar
2.R.Ravi

...Respondents/defendants

This petition is coming on 4.4.2025 for final hearing before me in presence of Thiru.L.Magilan, Advocate for petitioner and Thiru.S.Neelameham, Advocate for the second respondent 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 CPC to amend the plaint.

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

According to petitioner, at the time of the filing of the suit due to typographical error instead of mentioning S.No.326 1.44 1/2 acre it has been stated as 1.39 acre. Due to the above mistake, in subsequent paragraphs there has been typographical error in the description of the land in the plaint. Further the plaintiff has not sought for declaration

relief in respect of the suit properties and for declaration that document executed by the first defendant is not valid one. Moreover, pending the suit, the first defendant has executed a forged sale deed dated 3.2.2024, which will not bind the plaintiff. Hence the plaint has to be amended.

3. The averments in the counter in brief is as follows:

It is true that second defendant sold 1.49 acre lands to plaintiff, the plaintiff has filed this suit by creating forged sale deed in respect of remaining 13 cents. Already I.A.No.1/2023 for interim injunction was dismissed on merits and only to drag on the proceedings this petition has been filed. 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 at the time of the filing of the suit due to typographical error instead of mentioning S.No.326 1.44 1/2 acre, it has been stated as 1.39 acre. Due to the above mistake, in subsequent paragraphs there has been typographical error in the description of the land in the plaint. Further the plaintiff has not sought for declaration relief in respect of the suit properties and for declaration that document executed by the first defendant is not valid one. Moreover, pending the suit, the first defendant has executed a forged sale deed dated 3.2.2024, which will not bind the plaintiff. Hence the plaint has to be amended.

6.2) The respondent resisted the petition by contending that, second defendant sold 1.49 acre lands to plaintiff, the plaintiff has filed this suit by creating forged sale deed in respect of remaining 13 cents, already I.A.No.1/2023 for interim injunction was dismissed on merits and only to drag on the proceedings, this petition has been filed.

6.3) This is a suit for declaration and permanent injunction and trial has not yet commenced. The petitioner alleges that due to typographical error mistake has been crept in mentioning the extent of S.No.326 and he has to seek the relief of declaration that the documents in name of first document is null and void, and sale deed dated 13.2.2024 created by first defendant in the name of second defendant is null and void and also seeks to amend valuation column. This Court is of view that trial has not yet commenced, in the interest of justice, prevent multiplicity of proceeding and for proper adjudication of the case, petitioner must be provided an opportunity to prove the case,. The proposed amendment will not give ant advantage to plaintiff, as he has to prove it. The respondents are at liberty to file additional written statement, if necessary.

6.4) In view of foregoing discussions, this court is of view that petition has to be allowed in respect of amendment sought for except in respect of amendment sought to be made in the plaint in Para no.8, as the plaintiff has not pleaded about this in the suit. He seeks to introduce new events in pleadings, which he has not earlier stated and without stating reasons for non disclosure. This leads to new cause of action which cannot be permitted. Hence the petition is allowed in respect of rectifying typographical

errors, valuation column, declaration of Sale deed dated:13.2.2023 as null and void, and permanent injunction not to alienate suit property and dismissed in respect of other aspects. However, costs has to be imposed on petitioner, as petitioner has been filed after two years of filing of suit.

In the result, petition is allowed in respect of rectifying typographical errors, valuation column, declaration of Sale deed dated:13.2.2023 as null and void, and permanent injunction not to alienate suit property and dismissed in respect of other aspects on costs of Rs.2000/-. Costs to be paid on or before 21.4.25, failing which further orders will be passed. Call on 22.4.25.

Dictated by me, typed by the Steno-typist, corrected and pronounced by me in Open Court on this the 9th day of April 2025.

Additional District Judge,
Dharmapuri.

Petitioner Side witness, Exhibits: Nil
Respondents Side witness, Exhibits: Nil

Additional District Judge,
Dharmapuri.

Fair Order
I.A.No.03/2024 in
O.S.No.262/2022
Dated:9.4.2025.