

**IN THE COURT OF THE PRINCIPAL DISTRICT MUNSIF,  
NAGERCOIL.**

Present: **Thiru. R.Sundara Kamesh Marthandan, M.L.,**  
Principal District Munsif, (FAC) Nagercoil.

Tuesday, on this the 13<sup>th</sup> day of February 2024

**I.A. No. 10 of 2023**

**in**

**O.S. No. 71 of 2018**

1. Gnana Malar  
2. Anisha Rose  
3. Ancellin Rose

... Petitioners/Plaintiffs

-vs-

G.M.D. Raj

...Respondent/ Defendant

This Petition came up before this Court for hearing on 29.01.2024 in the presence of Thiru.Anand A.Wilson, Advocate for the Petitioners/Plaintiffs and Thiru.C.Ashok Kumar, Advocate for the Respondent/Defendant upon hearing the Petitioners' and Respondent's Counsel and upon perusing the case records and having stood over till date for Consideration, this Court delivers the following:

**ORDER**

1. The Petitioners/Plaintiffs have filed the above petition under Order VI Rule 17 and Section 151 of C.P.C., seeking to amend the survey number in Plaint Schedule from R.S.No.963/13,2 to R.S.No.961/13,2 and the Plaint B schedule property area has to be amended as 0.420 cent in R.S.No.961/2 part instead of 0.875 sq. links in R.S.No. 963/13, 2.

2. The Petitioners have stated that the suit property originally belonged to their father G.R.Amal Raju, he purchased the same under Sale Deed dated 10.02.2006 bearing Document No.730/2006 and that the said G.R.Amal Raju died on 09.03.2018. The property was inherited by Plaintiff herein. Further in Plaintiff para No.1, the survey number has been correctly mentioned as 961/13,2 of Azhagappapuram Village. However in the Plaintiff schedule it has been wrongly mentioned as 963/13,2. The same is typographically error occurred by way of oversight.

3. In the earlier amendment application, the survey number is wrongly typed and so the amended application in I.A.No. 9 of 2022 is dismissed on technical ground. The Commissioner has filed his report and plan before the Court. The Commissioner report the encroached portion is shown as ABCD, having an extent of 0.420 cents in R.S.No. 961/2 part, of Anjugramam Village, which is the Plaintiff B schedule property in the plaintiff. The area mentioned in the Plaintiff B schedule property has to be amended as 0.420 cents in R.S.No. 961/2 part of Anjugramam Village, instead of 0.875 square links in the Plaintiff. The error is not intentional and it is accidental. If the Petitioners are not permitted to amend the same, they will be put to irreparable loss and damage.

4. The Respondent in his counter had stated that the above petition is not maintainable. The Petitioner had filed the amendment petition in I.A.No. 9 of 2022 and this Court dismissed the petition with the observation that filing the petition in lethargic manner, without verifying their own pleadings, has to be

condemned. After that the Petitioner/Plaintiff filed this amendment petition to harass the Respondent/Defendant. There is no scope to file the amendment petition and the same is not maintainable. In order to invent and create new case, the Plaintiff had filed the above petition. The same is vexatious, against due to process of law. The Petitioner did not come before this Court with clean hands. The petition lacks bonafides, lacks merits and is unnecessary one. The Petitioner had filed the petition, without any right or merit, only with an intention to harass the Respondent. The Petitioner has no locus standi to file the petition. Hence the Respondent prayed for dismissal of the above petition.

5. The Point for Consideration is whether the above petition has to be allowed or not?

6. The Petitioner had stated that the Petitioner earlier filed I.A.No.9 of 2022 seeking to amend the survey number and the said I.A. came to be dismissed by this Court on 25.01.2023. As such the above petition is second petition in succession, seeking amendment. As contended by the Respondent, the Petitioner in his early application had not mentioned the correct survey number. Even after mentioning wrong description in the Plaint schedule, the Petitioner continued to give wrong survey numbers in In the affidavit filed in support of I.A.No. 9 of 2022 as well as the petition prayer made in I.A. No. 9 of 2023 also. Hence the said Petition was dismissed.

7. Now the Petitioner had stated that he had mentioned the correct survey number and sought to be incorporated by way of Amendment. In such

circumstances, necessity for seeking amendment has to be considered. The amendment sought for, is with regard to the correction in this survey number as well as the extent of the property. The Petitioner as stated by him, in one portion of his pleadings namely paragraph one of the Plaint, had mentioned about the survey number that has to be incorporated in the Plaint schedule.

8. As such, allowing the above amendment application, will in not change the nature of the suit and will not be introduction of new case, to the Respondent/Defendant. With regard to the amendment as to the extent, the Petitioner had come by way of the amendment in pursuant to the report filed by the Advocate Commissioner. Without admitting the said report, the same could be taken into consideration for disposing the above I.A., for the limited purpose, the amendment in survey number had necessitated after filing of the Commissioner's Report. As such, the proposed amendment, could be allowed.

9. However the act of the Petitioner filing pleadings with wrong survey number, in the suit of the year 2018 and later filing amendment application in I.A. No. 9 of 2023, without furnishing the correct survey number particulars and filing above amendment petition in succession, have to be mulcted with cost. Hence this Court is of the considered view that the above petition could be allowed on terms.

In the result the above petition is allowed on condition the Petitioner pays a sum of Rs. 2000/- (Rupees Two Thousand only) to the Respondent on or before 22.02.2024. Call on 23.02.2024.

Dictated to the Steno-Typist, and typed by her, corrected and pronounced  
by me, in Open Court this, the 13<sup>th</sup> day of February, 2024.

Principal District Munsif,(FAC)  
Nagercoil.

Petitioners side witnesses and documents : Nil

Respondent side witnesses and documents : Nil

Principal District Munsif,(FAC)  
Nagercoil.

I.A. No.10 of 2023  
in  
O.S. No.71 of 2018  
Draft/Fair Order  
Date: 13.02.2024.  
PDM Court, Nagercoil.