

**IN THE COURT OF THE DISTRICT MUNSIF,
ERANIEL.**

**Present: Thiru. S. Jothi Kailash, B.A., B.L.,
District Munsif, Eraniel.**

Tuesday, the 29th day of July 2025.

I.A.No7/2025

in

O.S.No.28/2022

T. Jegan

. . . Petitioner/Plaintiff

1. Krishnan Nadar,
S/o. Muthu Nadar,

2. Thangam,
W/o. Krishnan

. . . Respondents/Defendants

This petition has come up before this Court for final hearing on 17.07.2025, in the presence of Thiru.C.S.Lenin, learned counsel for the petitioner/plaintiff and Thiru.R.Jayakumar, learned counsel for the Respondents/Defendants, on hearing both sides arguments and upon perusing the case records, this Court delivered the following.

ORDER

1. This petition filed under Order VI rule 17 and Section 151 of CPC, to amend the plaint.

2. The petitioner has filed the petition along with the affidavit stating that he has filed the suit for permanent injunction restraining the respondents in obstructing the plaint B Schedule property by constructing the compound wall and the bone contention of the petitioner is that the plaint B Schedule property is the only pathway for ingress and egress of the plaint A schedule property which also clearly stated the annexed plan in sale Deed No. 1201/2009 of SRO, Eraniel and to rebut the petitioner's contentions the Respondent filed the written statement stating that there is no such plaint B Schedule property and the properties situated on either side of plaint B Schedule property belong to the respondents lying as a single plot thereby disputing the fact that plaint B Schedule property is the pathway to reach plaint A Schedule property. It is the contention of the petitioner that the property in Re.sy. No. 262/12 measuring to extent of 2 cents and the property comprised in Re.sy. No. 262/18 having extent of 6 cents belongs to the 1st defendant and he cannot acquired title more than what he derived from the parent document and after commission visit Commissioner in his commission report states that the actual survey number of the plaint schedule property is 261/3A, but in the survey of number of the plaint schedule property is wrongly mentioned as 262/15 instead of 261/3A. Hence, the petitioner filed this petition to amend the plaint accordingly.

3. The Respondents in his counter stated that the averments and allegations relating to the petitioner/plaintiff is having a only one party which is B schedule property, the petitioner/plaintiff in using the above plaint B schedule property for ingress and egress to the plaint A schedule property is utter false hood story and denied. Factually, the petitioner/plaintiff's wife Mrs.Janaki who purchased the 1.280 cents comprising in comprising in Re.Sy.No: 261/2A of Kurunthencode Village on the south east corner to reach the plaint A schedule property as per document No: 4226/2018 dated 16-10-2018 through the Sub registrar's Office at Eraniel from one Santhakumari, Jency Javamalar, Irin Pon Malar and Jenin Prabhu, The above 1.280 cents have been used by the plaintiff and his family members to reach the plaint A Schedule property which an exclusive pathway for the petitioner/plaintiff However, the petitioner/plaintiff suppressed those facts and falsely claiming that, the innuendo B schedule pathway. The allegations relating to the respondents/defendants 1 and 2 have been obstructing the plaint B schedule pathway by constructing a compound wall is utter false hood story and denied. Indeed, no such B schedule pathway existed as alleged by the petitioner/plaintiff. The petitioner/plaintiff tried to form a new pathway and thereby he falsely described the B schedule pathway. The respondents/defendants are husband and wife who have filed a written statement which disclosing the real truth behind it as there is no plaint B schedule property in existence. The alleged factum of B schedule property

does not exist as stated supra. The petitioner/plaintiff tried to for B schedule property as a pathway by way of narrating B Schedule property as a pathway. The averments relating to the 1st respondent/ defendant acquired the title more than what the petitioner derived the parent document is utter false hood story and denied. The advocate Mr.C.Selvakumar was appointed as a commissioner who inspected the suit schedule property and prepared a plan. While preparing a plan through the qualified surveyor, the Advocate/Commissioner came to know that the survey numbers of the petitioner/plaintiff as well as respondents/defendants and other Village people were mistakenly mentioned in their respective documents. Therefore, Advocate/Commissioner categorically pointed out the erred resurvey numbers before this Honourable Court through the commission report. The petitioner/plaintiff sought a relief of Add-interim injunction through the I.A.No: 3/2022 which is dismissed by this Honourable Court dated 21-06-2024. In the above order, this Honourable Court observed the report of the Advocate/Commissioner and the erred Resurvey numbers indicated as 262/15 instead of 261/3A based on the commission report. Thereafter, this petitioner/plaintiff has come before this Honourable to amend the correct Re.Sy.No; 261/3A without any document. It is very pertinent to note that, the petition has been filed by the petitioner/plaintiff to fill up the lacuna, hence, prays for dismissal of this petition.

4. The point for consideration in the above petition is whether the

petition is to be allowed or not?

5. The petitioner has filed the petition to amend the plaint with regard to the survey number of the plaint schedule property which is mentioned as 262/15 instead of 261/3A based on a Commission report. Admittedly this case the Commissioner report has been filed and admittedly there is an error in the resurvey number mentioned in the plaint, which is categorically pointed out by the Advocate Commissioner in his commission report. All the allegations of the respondent is properly valued. This is suit for permanent injunction and the fact that change in survey numbers came to the knowledge of the petitioner after the Advocate Commissioner's report is acceptable and the proposed amendment would not in any way change the nature of the suit. On perusal of the case records it can be seen that Commissioner has filed the report on 31.03.2023 itself and this petitioner would have knowledge about the change in survey Numbers as pleaded by him. But, no reason was stated by the petitioner for filing this petition two years after the Advocate Commissioner filed his report and that too at the stage of trial. This conduct shows the heedless of the petitioner. Hence, this court would like to impose cost for the conduct of the petitioner and inclined to allow this petition on terms and the petitioner is hereby directed to pay Rs. 2,000/- (Rupees Two Thousand Only) to the DLSA, Nagercoil on or before 04.08.2025, failing which petition will be dismissed automatically, the next hearing date is 05.08.2025.

6 In the result, the petition is allowed and the petitioner is hereby directed to pay Rs. 2,000/- (Rupees Two Thousand Only) to the DLSA, Nagercoil on or before 04.08.2025, failing which petition will be dismissed automatically, the next hearing date is 05.08.2025.

Dictated to the Typist, transcribed and typed by her in Computer, corrected and pronounced by me in Open Court this, the 29th day of July, 2025.

Sd/-
District Munsif ,
Eraniel.

Petitioner side witnesses & documents:- Nil

Respondents side witnesses documents :- Nil

Sd/-
District Munsif,
Eraniel.

D.M.Court, Eraniel.
I.A.No.7/2025
in
O.S.No.28/2022
Draft/Fair Order
Dated: 29.07.2025

