

In the Court of the Principal District Judge,
Principal District Court, Kancheepuram.

PRESENT: **Thiru Pa.U.Chemmal, M.A.,LL.M.,**
Principal District Judge,
Principal District Court ,
Kancheepuram.

Monday the 21st day of July 2025

IA.No.7/2024 in O.S. No.22/2021

M. Parimala

...Petitioner/Plaintiff

Vs

1. C.S. Pattabi
2. C.S. Harikrishnan (Deceased)
3. C.S. Neelakrishnan
4. Sivasankari
5. Vilashini
6. S. Jayakanthan
7. J. Viujayalakshmi
8. J. Harishwar
9. Mala
10. Padmapriyadhrshini

.... Respondents/ Defendants

This petition is coming on 14.07.2025 for final hearing before me in the presence of Thiru.P. Bharathiraja, Counsel appearing for the Petitioner and Thiru.R. Sampath, Counsel for the 5th respondent and Thiru.P. Sugapriyan, Counsel for respondents 6 to 8 and M/s. V. Tamilarasu, V. Thulasi, J. Karpagam, V. Praveen, M.K. Archana, R. Kamesh, V. Srisaran, A. Sarathkumar, T. Siddharth, Counsels appearing for the 9th respondent and

respondents 1, 4 and 5 being called absent set ex parte and the 2nd respondent being died and upon hearing the arguments on both sides and upon hearing arguments on both sides and upon perusal of records and having stood over the matter for consideration till this day, this court delivered the following

ORDER

This petition is filed by the petitioner under Order 6 Rule 17 of CPC to amend the plaint which is mentioned in the caption of Details of amendment in this petition.

2) **The averments set out in the affidavit of V. Manoharan, General Power of Attorney of the petitioner/ plaintiff in read as follows:**

The petitioner is the General Power of Attorney of the petitioner/plaintiff.

The petitioner has filed the above suit against the respondents/defendants for declaration and partition.

In the said suit, the petitioner prayed the relief sought for partition and also declaration declare that the supplementary documents No. 6037 & 6038/2018 is null and void and not binding on the plaintiff, since the defendants 1 and 3 were committed and played fraud upon the execution of said documents. Before filing this suit, the said issue was taken before the Registration Department and gave the petition on 08.09.2019 before the District Registrar against the illegal action of the Sub Registrar, Joint IV, Kanchepuram. The

District Registrar passed the order in which they rejected his petition and directed them to approach the civil court for appropriate remedy.

Aggrieved the same, the petitioner filed an application before the DIG of Registration, , Chennai on 18.11.2019. They have not passed the order immediately and it was kept pending on their file on some months. In the meantime, the petitioner filed this suit. Thereafter on 19.11.2021, the Deputy Inspector General of Registration at Chennai passed the final order on his appeal, in which they cancelled the above two documents No. 6037 & 6038/2018 on the file of Joint IV, SRO., Kancheepuram on the ground of fraud and directed the concern Sub Registrar to cancel the same immediately. As per the direction of the DIG, the Sub Registrar cancelled the documents. Hence, the petitioner is going to delete the said prayer for declaration in respect of said Doc.Nos. 6037 & 6038/2018, at the same time, the petitioner may be incorporated two fraudulent documents.

Thereafter in the month of August 2022, occasionally the petitioner verified the Encumbrance Certificate on the website of Registration Department with regards of Gandhi Road property, then the petitioner found two settlements executed was executed by Mr. M. B. Sarangabani Naicker in favour of C.S. Neelakrishnan being Doc.No. 3803/2018 and 6716/2019. Thereafter the petitioner verified the document numbers in Registration website. In respect of

3803/2018, it was reflected but in respect of the Doc.No. 6716/2019 not reflected. Then the petitioner approached the Joint IV, SRO, Kancheepuram and asked them they said that documents has not been registered in their office. After that from known person, the petitioner came to understand that, the Doc.No. 6716/2019 was registered at JOINT II, SRO, Kancheepuram instead of SRO, Kanchipuram Joint-IV. Thereafter the petitioner applied the said copy of Settlement Deed Doc.No. 6716/2019 on 04.10.2022 and the petitioner got the same. In the said settlement deed, the petitioner found that other property also mention. Further, the petitioner came to know that how the said Sub Registrar was entertained that documents for registration before them since , main property is comes under Joint-IV SRO, Kancheepuram limit. To assertion the same, the petitioner sent a petition under Right to Information Act to the SRO, Joint II, SRO, Kancheepuram sent a detailed reply to the petitioner on 10.11.2022.

Apart from that the defendants 1 to 3 were grabbed several amounts from the father of the plaintiff Mr. M. B. Sarangabani Naicker. All those facts were known by the petitioner recently. Further, in respect of other properties in the Arpakkam village, the parent documents has not been traceable and who is in possession has not been found, hence, the said property was not included in the said settlement deed and retained the same for sale or partition later, but the said

was also included in the fraudulent settlement deed.

The 3rd defendant with help of some rowdy elements and take away the plaintiff father and obtained a such forged settlement deed in his favour. Further, some amount was also taken by the 3rd defendant from the plaintiff father M.B. Sarangabani Naicker including his hand and also his accounts. Hence to challenging all the above said settlement and further also to include other properties in the schedule, the plaint requires amendment. On filing of separate suit will take time further, the parties in the said documents and also facts also very same.

In the petitioner's plaint pleadings at paragraph 16, the petitioner has mentioned that during this pendency of this suit, if the petitioner collected further details of plots and other etc. permitted to amend the pleadings. Now all of the details were collected and filed this petition. Hence, it is just and necessary that may be permitted to make amendments of the plaint, as otherwise, the petitioner will be put to irreparable loss and severe injury. Hence, petition may be allowed as prayed for.

3) The averments found in the counter of the 9th Respondent in brief is as follows:

The allegations contained in the affidavit are false, frivolous, vexatious and unsustainable in law and on facts. The respondent denies all allegation in

the affidavit, except those specifically admitted herein.

The petitioner has filed the amendment application to amend the paragraph No.16, and cause of action paragraph and schedule of property is not true. The respondents 1 o 3 are the co-sharers, hence, the suit itself is not maintainable. The petitioner has not filed the suit for declaration of title, hence, there is no necessity to amend the plaint and petition. There is no necessity to introduce the new cause of action of the suit and petition. The petitioner has now only file the petition to drag on the case. Hence, petition may be dismissed.

4. On perusal of affidavit, petition and the counter, the point for determination that arose for consideration is

Whether the application to amend the plaint as prayed for in the application is to be allowed or not?

5. Answer to the Point:

Heard both sides. The plaintiff has filed this application to amend the plaint. On perusal of the proposed amendment, the amendment is based on documents which were in existing at the time of filing of Original suit. The reason for delay is not properly explained. If the amendment is allowed it would amount to substitution of earlier plaint with new one with new cause of action and new relief. No explanation is properly given as to why the application is filed in a belated stage. The application is not seems to be

consquential application. Due diligence is looked into. It determines the scope of the parties constructive knowledge claim and is very critical to the outcome of the suit. Court can examine the proposed amendment to ascertain whether the nature and character of the suit is sought to be changed by the proposed amendment. The proposed amendment is nothing but changing the very nature of the suit.

The proposed amendment would be to take away from the defendant a legal right which has accrued to him. The proposed amendment would introduce a totally new and inconsistent case and the application is made at a late stage. Therefore the leave to amend to be refused. The point is answered accordingly.

6) In the result, this petition is dismissed. No costs.

//This order has been dictated by me to the Stenographer, taken down, transcribed and typed by her in the computer, corrected and pronounced by me in the open Court on this the Wednesday the 21st day of July 2025//

Sd./-Pa.U. Chemmal
Principal District Judge,
Principal District Court,
Kancheepuram.

Exhibits and Witnesses on both side: NIL.

Sd./-Pa.U. Chemmal
Principal District Judge,
Principal District Court,
Kancheepuram.

Draft/Fair Order
I.A.No.7/2024 in
O.S.No. 22/2021
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