

**IN THE COURT OF PRINCIPAL DISTRICT MUNSIF KANCHEEPURAM
KANCEEPURAM DISTRICT**

**PRESENT: Tmt.R. Rajeswari,B.Com.,L.L.M.,
Principal District Munsif, Kanchipuram**

On Tuesday, this the 27th day of June 2023

IA.No.3 of 2023
In
O.S.No.157 of 2018

L. Ganesh
S/o. Lakshmipathy

..Petitioner/Plaintiff

/Versus/

N. Murugan,
S/o. Nagappan

...Respondent/Defendant

This petition has come up on 16.06.2023 for final hearing before me in the presence of Thiru.V. Sathishkumar, advocate for the petitioner and Thiru.K. Vijayasundaram, advocate for the respondent upon hearing the arguments of both sides and upon perusing the connected material records and having stood over till this day for consideration, this court delivers the following:

ORDER

1. This petition is filed under Order 6 Rule 17 of CPC to permit the petitioner to amend the plaint suitably as detailed in the petition.
2. The case of the petitioner as stated in his affidavit is as follows:-

The petitioner submitted that the petitioner has filed the suit against the Respondents/Defendants for recovery of possession of B Schedule mentioned suit property from the defendant after

demolishing the sunshade and other walls and in consequence thereof for permanent injunction restraining the defendant and its men, and agents from in any way interfering with the petitioner peaceful possession and enjoyment of the suit property. The petitioner is the absolute owner of the suit schedule mentioned property and the suit is posted for taking evidence on today (06.01.2023) The petitioner came to know that and after perusing the title deeds submitted by the petitioner, in the list of document was wrongfully mentioned as 50/1998 dated 19.01.1998 instead of 50/1988 dated 19.01.1988 and also the nature of the deed was wrongfully mentioned as "Sale Deed" instead of Release Deed". The petitioner submit that after filing of the above suit the petitioner came to know that and also perusing the acknowledgement Card of the legal notice submitted by the petitioner in the list of document, the date was wrongfully mentioned as 22.06.2018 instead of 28.08.2018 and also the legal notice issued by the petitioner to the defendant was submitted before this court. In that the date was wrongfully mentioned as 27.06.2018 instead of 27.03.2018. Hence this petition.

3. The respondent filed his counter and the gist of the same is as follows:-

The Respondent/Defendant denies all the allegations contained

in the affidavit filed in support of petition. The petitioner is not the owner of B schedule mentioned the property. The petitioner is not entitled to demolish the respondent/defendant's sunshade and other walls. The petitioner/plaintiff is not entitled for permanent injunction and recovery of possession. That the schedule of property mentioned in the suit is misleading one. The suit and the above petition is not maintainable. The allegation mentioned in the affidavit is not true and correct. The petitioner/plaintiff are issued legal notice to the respondent/defendant without mentioning the date. The notice issued by the petitioner/plaintiff is not bearing any date. The respondent/defendant submit that the petitioner is trying to introduce new cause of action by way of this amendment. If the petitioner wants to file any documents the petitioner is having option by way of filing the separate petition to receive the additional documents as per CPC. The petitioner at this juncture is not entitle to amend the plaint or introduce the new cause of action. Hence the petition may be dismissed.

4. The point for consideration in this petition is whether this petition is to be allowed or not.

The Point:

5. It is the case of the petitioner that the petitioner has filed the above suit against the Respondents/Defendants. The petitioner is the

absolute owner of the suit schedule mentioned property and the suit is posted for taking evidence on the petitioner side. The petitioner came to know that after perusing the title deeds submitted by the petitioner, in the list of document wrongfully mentioned as 50/1998 dated 19.01.1998 instead of 50/1988 dated 19.01.1988 and also the nature of the deed was wrongfully mentioned as "Sale Deed" instead of Release Deed" and in the acknowledgement Card of the legal notice submitted the petitioner in the list of document the date was wrongfully mentioned as 22.06.2018 instead of 28.08.2018 and also in the legal notice issued by the petitioner to the defendant the date was wrongfully mentioned as 27.06.2018 instead of 27.03.2018. Hence the petitioner counsel prayed to allow this petition.

6. It is the case of the respondent that the petitioner is not the owner of B schedule mentioned the property. That the schedule of property mentioned in the suit is misleading one. The suit and the above petition is not maintainable. The petitioner/plaintiff are issued legal notice to the respondent/defendant without remaining the date. The notice issued by the petitioner/plaintiff is not bearing any date. The respondent/defendant submit that the petitioner trying to introduce new cause of action by way of this amendment. The petitioner is having option by way of filing the separate petition to receive the additional documents as per CPC. At this juncture, the petitioner is

not entitle to amend the plaint or introduce the new cause of action.

Hence the respondent counsel prayed to dismiss the suit.

7. Both sides arguments heard. Connected material records perused. The document number 1 listed in the petition was already received in evidence as Exhibit A1 as released deed. Hence there is no necessity arise for the petitioner to amend the plaint.
8. With respect to document number 2, the petitioner stated that the date was wrongfully mentioned as 27.06.2018 instead of 27.03.2018. But on perusal of records it shows that the date of legal notice mentioned in the plaint is only 27.03.2018. Hence there is no necessity arise for the petitioner to amend the plaint with respect to the date of the said legal notice.
9. With respect to document number 3, the petitioner stated that the date was wrongfully mentioned as 22.06.2018 instead of 28.03.2018. On perusal of acknowledgment card filed with plaint the date is mentioned as 28.03.2018. The respondent counsel vehemently argued that the signature found in the acknowledgment card is a forged one. The respondent is at liberty to raise his objection at the time of receiving the above document during evidence. Hence the petitioner is permitted to amend the plaint with respect to document number 3, the acknowledgment card.

10. In the result, the petition is partly allowed. This petition is allowed only with respect to document number 3[the acknowledgment card]. This petition is dismissed with respect to documents number 1 and 2.

Dictated to the steno-typist, who directly typed the same in her computer, corrected and pronounced by me in open court, this the 27th day of June 2023

Sd/-R.Rajeswari
Principal District Munsif,
Kancheepuram.