

IN THE COURT OF THE DISTRICT JUDGE, KARUR
PRESENT:- THIRU R. SHANMUGASUNDARAM, B.Com., L.L.B.,
PRINCIPAL DISTRICT JUDGE.

Saturday, the 05th day of August 2023

I.A.No.05/2023 in O.S.No.29/2022

R. Kandasmy

...Petitioner/ Plaintiff

vs.

1. P.K.Selvam
2. S. Thangamani

...Respondents/ Defendants

This petition coming before me for final hearing on 26.07.2023 in the presence of Thiru R.K.Karthik, advocate for the petitioner and Thiru. S.Mathiyalagan, advocate for the respondents and upon hearing the arguments on the both sides and having stood over for consideration till this day, this Court passed the following

ORDER:-

This petitioner/plaintiff has filed this petition seeking to amend the plaint as mentioned in this petition.

Brief averments of the affidavit filed by the petitioner/plaintiff is as follows:-

2) The petitioner is the plaintiff in the above suit. He has filed the suit for recovery of money and other reliefs. He submits that the 1st defendant has executed the suit promissory note dated 14.10.2020 in his favour at Plot No.82, Muthu Printer, Anna Nagar, Thanthondri Malai, Karur Taluk and Karur District in the presence of witness. He has stated that in 1st line in para 10 of the plaint and 10th and 11th line in para 13 of the plaint, he has inadvertently stated as promissory note was executed at 1/134-3, KVB Ram Nagar East, Salem Bypass road, Karur-639006 instead of Plot No.82, Muthu Printer, Anna Nagar, Thanthondri Malai, Karur Taluk and Karur District. It is only typographical errors. He submits that on his side, he was examined

as P.W.1 and one V.S.Ragavan was examined as P.W.2. The above said case has been posted on 28.06.2023 for cross examination of P.W.'s. He further submits that when he discussed with his counsel on 25.06.2023, he came to know about the above said mistake and hence, he was advised by his counsel to file petition to amend the plaint as Plot No.82, Muthu Printer, Anna Nagar, Thanthondri Malai, Karur Taluk and Karur District in 1st line in para 10 of the plaint and 10th and 11th line in para 13 of the plaint instead of 1/134-3, KVB Ram Nagar East, Salem Bypass road, Karur-639006. He submits that the proposed amendment will not alter the nature and character of the suit. Further, by allowing the application, the respondents/defendants will not be prejudiced in any manner. He submits that if this petition is not allowed, he will be put to much loss and hardship. Hence, prays to allow the application.

Brief averments of the counter filed by the respondents/defendants is as follows:-

3) The respondents/defendants have filed a counter denying all the allegations and averments made in the affidavit filed by the petitioner. It is submitted that the petitioner/plaintiff has examined himself as P.W.1 on 20.04.2023 and he filed his proof affidavit with false allegations. It is submitted that the petitioner/plaintiff with intention to grab money from the respondents/defendants has forged the signature of the 1st defendant and filed this suit. The signature in the suit promissory note is not that of the 1st respondent/ 1st defendant. The respondents/defendants came to know about the above said fact only after seeing the copy of the document produced by the petitioner/plaintiff as promissory note. Further, in order to prove that the signature in the suit promissory note is not that of the 1st respondent/1st defendant, the 1st respondent/1st defendant is taking steps to send the suit promissory note to the forensic expert to compare the same with the contemporaneous document. It is submitted that the petitioner/plaintiff has filed this petition in order to strengthen his case. The petition filed by the petitioner/plaintiff is not maintainable. Hence, prays to dismiss this petition.

4) This Court considered the rival submissions on both sides.

5) The point for consideration is the whether this petition has to be allowed or not?

ANSWER TO THE POINT:-

6) The petitioner is the plaintiff and the respondents are the defendants in the suit. The petitioner/plaintiff has filed the suit for recovery of money based on promissory note said to have been executed by the 1st respondent/ 1st defendant. Both the defendants have appeared through their counsel and filed their written statement. Based on the pleadings, seven issues have been framed and the suit was posted in the list on 11.04.2023. Further, the plaintiff examined himself as P.W.1 on 20.04.2023 and marked Ex.A1 to Ex.A7 and one Ragavan was examined as P.W.2 on 08.04.2023. Thereafter, when the case was posted for the cross examination of P.W.1, the petitioner/plaintiff has filed this present application seeking to amend the plaint as described in the petition. According to the petitioner, there was a typographical error in the 1st line in para 10 of the plaint and 10th and 11th line in para 13 of the plaint with regard to the place of borrowal. The plaintiff in his plaint has wrongly stated that the promissory note was executed at 1/134-3, KVB Ram Nagar East, Salem Bypass road, Karur-639006 instead of Plot No.82, Muthu Printer, Anna Nagar, Thanthondri Malai, Karur Taluk and Karur District. The above said mistake is a typographical error and the petitioner wants to amend the above said mistake.

7) The respondents/defendants have filed their counter stating that the above said mistake is not a typographical mistake as the suit itself is based on the fabricated promissory note. Therefore, the amendment is not a typographical error. Admittedly, the plaintiff in para 10 of the plaint has stated that the execution of the suit promissory note was at 1/134-3, KVB Ram Nagar East, Salem Bypass road, Karur-639006. Now, he wants to delete the said place of execution and insert in that place as Plot No.82, Muthu Printer, Anna Nagar, Thanthondri Malai, Karur Taluk and Karur District. Both the above said places are at Karur Municipal limits and both places are within the territorial jurisdiction of this Court. Therefore, by allowing this

amendment the jurisdiction of this Court will not be affected. The contention raised by the respondents/defendants that the plaintiff has filed the suit for recovery of money based on the fabricated promissory note and he is taking steps to send the suit promissory note for expert opinion. Whether the suit promissory note is a fabricated one or not? and Whether the plaintiff has lend the sum of Rs.16,00,000/- to the defendant are to be decided after adducing evidence of both sides. Therefore, the genuineness of the suit promissory note cannot be decided at this stage. Further, the proposed amendment will not alter the nature and character of the suit. However, the amendment is a post-trial amendment. After the examination of P.W.1, the petitioner/plaintiff has filed this application. Therefore, the trial is delayed. On filing of this present application, the respondent/defendant would face certain loss and hardship. However, the same can be compensated in terms of costs. Accordingly, this petition is allowed with costs.

8) In the result, this petition is allowed with condition that the petitioner/plaintiff shall pay a sum of Rs.1,500/- as costs to the respondents/defendants on or before 16.08.2023 failing which the petition shall stands dismissed automatically. Call on 17.08.2023.

Dictated to the steno-typist, transcribed by him corrected and pronounced by me in open Court on this the 05th day of August 2023.

PRINCIPAL DISTRICT JUDGE,
KARUR.