

IN THE COURT OF MUNSIF, VADIPATTI, MADURAI DT.

Present: Tmt. S. Vengadalakshmi, M.L.,

District Munsif (FAC)

**Date : 08.12.2023**

I.A. No.01/2023

in

O.S.48/2015

1. Vellaiammal
2. Ramanathan
3. Rani

--- Petitioners/Plaintiffs

//Versus//

Rajeswari

--- Respondent/Defendant

This petition is filed before this court and it was taken on 19.04.2023 and Advocate Thiru. M. Venkatesan appeared for the Petitioners/Plaintiffs and the Advocate Thiru. V. Gokulanath appeared for the Respondent/Defendant and this petition came before me for final hearing on 02.12.2023. Upon hearing the arguments advanced on both sides, upon perusing the available material records and having stood over for consideration till this day, today this court delivered the following...

**Order**

1. This petition is filed under Order 6 Rule 17 of C.P.C for the purpose of amending the Plaint.

2. **The brief case of the Petitioner:**

The present petitioner is the plaintiff in the main suit and the main suit is filed for the relief of declaration and permanent injunction along with mandatory injunction as against the Defendant.

3. This case is pending in the stage of argument. Originally, the case property belong to the present petitioner plaintiffs and wherein the Defendant/Respondent has encroached the portion. Hence, the petition has filed for the relief of mandatory injunction, to remove the encroachment.

4. The case was originally filed with three plaintiffs during the pendency of the suit on 09.11.2021. 1 and 3<sup>rd</sup> plaintiff has executed relinquishment deed vide document No.2489/21, in favour of the 2<sup>nd</sup> Petitioner/Plaintiff. Hence, the present petitioner has become the absolute owner for the complete suit schedule property. Hence, seeking for the present amendment and the present petition shall be allowed.

5. **The brief case of the Respondent vide counter:**

This present petition is liable to be dismissed and not maintainable at all. The evidence of both side have been completed and the case is posted for the purpose of pronouncing judgment after hearing the argument. At this stage, the present petition

is filed for the purpose of drag on the proceedings. It is stated that the relinquishment deed was executed during the year 2021 itself. But, still the present petition is filed only at the later stage. Hence, after the completion of trial the amendment in diary shall not be permitted. On the vague reasons and there is an alteration in the cause of action. Hence, the present petition is liable to be dismissed.

6. The point to be decided is whether the present application to amend the original plaint shall be allowed or not?

7. On the side of petitioner Exhibit P1 is marked, which is the release deed dated 09.11.2021, executed by one Velliammal and Rani, in favour of Ramanathan. On the side of Respondent there was no document filed.

8. Heard both side counsels and considered the materials. The counsel for the petitioner would submit that the present application shall be allowed on the given reasons. The Respondent side has submitted to consider the contents made in the counter.

9. Upon considering the facts and circumstances of the case it is the case that the petitioner that the present 2<sup>nd</sup> petitioner has got a complete exclusive right based on the release deed executed by the other two plaintiffs. Hence, prayed for the amendment.

10. Present suit is filed for the relief of declaration and permanent injunction. Totally 3 plaintiffs were arrived as plaintiffs and the suit is found pending from the year, 2015.

11. It is rightly pointed out by the Respondent side that the case is already posted for judgment and now the petitioner has preferred the present application for amendment.

12. Upon perusal and consideration of the case records it is found that arguments on the side of parties were closed and posted for judgment for 28.03.2023. Then only the present petition is preferred to be filed.

13. It is well settled law that the petition for amendment to be considered in a lineant approach when it is preferred before the commencement of trial. But, when the parties to the proceeding sought for amendment after the commencement of trial, the same shall be taken into serious consideration of the infringement of right of other side. But, in this case it is filed at the stage of judgment.

14. The reason for the present amendment is just that the other two plaintiffs has executed a release deed, in favour of the 2<sup>nd</sup> Plaintiff. During the year 2021, upon perusal of the notes paper it is found that the suit was in the stage of trial from the year, 2019 and the present petitioner was examined in cross. After the date of the present Exhibit P1, the release deed.

15. Upon perusal and consideration of the case records and on considering the

contents of amendments sought and mentioned in the present petition, it is stated that the S. Nos.1 to 26 to be amended in the plaint. While describing the plaint it is stated that short cause title No.1 and 3 shall be removed likewise from S.No.4 till S.No.26 it is stated that pleading long cause title. "வழக்குரையின் நெடுந்தலைப்பில் என குறிப்பிடப்பட்டுள்ளது".

16. But this court could not understand why the entire contents of the plaint have been described as long cause title. While this court called for the clarification from the counsel for the petitioner he has stated that it is apt and correct word used by the present petitioner. But, this court has not convinced on that point.

17. Ignoring the same, the long cause title is only the portion in which the description of parties have been given along with the name, father name, age and residential address along with the religion and other particulars and the rest of the plaint portions could be considered only as content of the plaint and prayer portion could be stated only as prayer "(பரிகாரபத்தி)". Like wise, undertaking portion could be mentioned only as "சான்றுறுதி பகுதி/உறுதிமொழி பகுதி". Irrespective of that exact description, it is stated as long cause title and it is also submitted by the counsel for the petitioner that it is a practice followed all over the districts even in other courts also. But, this court has only concerned about the definitions and descriptions given in the law.

18. Hence, on considering the period of one and half years almost 15 months exact, which crossed after the examination of PW1 and the filing of the present petition shall be taken into consideration as against the rights of the Defendant. Hence, this court does not find any valid reason for the delay in filing the present petition and this court does not find even a single reason to allow the present application on merit.

Accordingly, this petition is dismissed.

Dictated to the Steno Typist typed by her directly on the computer, corrected and pronounced by me in the court this the 08<sup>th</sup> day of December, 2023.

*Sd/-*

**S. Vengadalakshmi**  
District Munsif(FAC)  
Vadipatti.

1) Petitioners side evidence : Nil

2) Petitioners side documents:

Exhibit P1	09.11.2021 - Release Deed executed in favour of Petitioner
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3) Respondent side evidence and documents: Nil

*Sd/-*

**S. Vengadalakshmi**  
District Munsif (FAC),  
Vadipatti.

**TRUE COPY**

DISTRICT MUNSIF COURT  
Vadipatti  
I.A. No.01/2023  
in  
O.S. No.48/2015  
FAIR ORDER