

IN THE COURT OF DISTRICT MUNSIF, VADIPATTI

PRESENT: Thiru. M.P. Ramkishore, B.E., B.L., Hons'

District Munsif, Vadipatti.

Dated this the 23rd day of January 2025

I.A.No.1 / 2023

in

O.S.No.137 / 2022

Harihara Bose,
S/o. Ayyakannu Thevar

.... Petitioner / Plaintiff

//Versus//

V. Selvaraj,
S/o. Vellaichamy

.... Respondent / Defendant

This petition is filed before this Court on 06.12.2023 and Advocate Thiru. K.K. Ravie appeared for the Petitioner / Plaintiff, Advocate Thiru. M. Thiyagarajan appeared for the Respondent / Defendant, and this petition came before me for final hearing on 23.01.2025. Upon hearing the arguments advanced by both side's counsel and upon perusing the available material records, this Court has delivered the following....

ORDER

1. This petition was filed under order 6 rule 17 & 18 of C.P.C. to amend the plaint.

2. Gist of the petition:

The petitioner is the plaintiff in the main suit. The suit was filed for permanent injunction. The petition averment was that, the suit was pending for trial. At the time of filing the plaint the 1 to 3 points in 8 to 12 lines in para 5 of the plaint were mistakenly included, hence the petitioner may be permitted to remove the lines from the plaint and if the petition is not allowed, irreparable loss would be caused to the petitioner. Hence, this petitioner / plaintiff filed this petition to amend the plaint.

3. Counter averments in brief:

The respondents filed counter by denying the entire petition contentions and stated that this petition was filed to delay the suit. The suit was filed in the year 2022 and pending for trial. At this time the petitioner / plaintiff had filed this petition to remove the 1 to 3 points in 8 to 12 lines in para 5 of the plaint as they were mistakenly typed and not to add any points instead of the error mentioned, is not acceptable. Thus this petition must be dismissed.

4. Point for determination : Whether this petition can be allowed to amend the plaint?

i. Records perused. The petitioner filed this petition to remove few lines from the plaint. On the other hand, the respondent challenged the petition stating that this petition was filed with false grounds, for delaying the suit proceeding.

ii. Both the sides did not file any document in this proceeding.

iii. The petitioners contention was that the amendment sought to remove the lines which were mistakenly typed in the plaint, hence it is necessary to remove those lines for proper adjudication of the suit. The respondents totally denied the petition grounds and stated that this petition was filed only to delay the suit proceeding.

iv. In this regard this court relies upon the judgment of **Our Hon'ble Supreme Court in Rajesh kumar agarwal v K.K. Modi (C.A. No. 5350/2002) and Baldev singh v. Manohar singh (AIR 2006 SC 2832)**. In the above judgment it was decided as, amendment of pleadings to be liberally permitted to decide the real matter in controversy between the parties.

v. Applying the above judgments to the case in hand, it was found that in the present petition, the petitioner sought to remove few lines mentioned from the plaint. On perusal of entire records before this court, in the suit trial was not yet begun by the petitioner /

plaintiff. Further as mentioned in the petition, the amendment needed to be carried was to only remove the unnecessary lines in the plaint. The amendment is clearly mentioned to rectify the typographical error in the plaint. There is no introduction of new claims or causes of action that could prejudice the other party. Thus to prevent further litigation, it is necessary to allow the amendment. Thus as decided by our Hon'ble Supreme Court in the above mentioned verdict, this court finds that the amendment sought by the petitioner can be allowed.

5. **In the result**, the petition is allowed, no costs and steps to carry out amendment shall be made without taking any further adjournment.

Directly dictated to the Stenographer and computerized error checked and pronounced in the open court on the *23rd day of January 2024*.

District Munsif,
Vadipatti.

Petitioner side witness and documents : Nil

Respondents side witness and documents : Nil

District Munsif,
Vadipatti.

DISTRICT MUNSIF COURT,
Vadipatti
I.A. No.1 / 2023
in
O.S. No.137 / 2022
Fair Order / ~~Draft Order~~
Dated: 23.01.2025