

IN THE COURT OF DISTRICT MUNSIF, VADIPATTI

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

District Munsif, Vadipatti.

Dated this the 26th day of June 2025

I.A.No.7 /2025

in

O.S.No.76 / 2016

CNR. No. TNMD190002162016

1. Pushpam,
W/o. Thangavel
2. Thangammal,
W/o. Ganesan

.... **Petitioners / Plaintiffs**

//Versus//

1. Seeni @ Sivaguruvan Chettiyar (Died),
S/o. Bhuvan Chettiyar
2. Narayanasamy,
3. Tamilselvi,
W/o. Baskaran
4. Rajeswari,
W/o. Boominathan
5. Palaniammal,
W/o. Late. Seeni @ Sivaguruvan Chettiyar
6. Nagu,
W/o. Late. Selvaraj
7. Poovaraja,
S/o. Late. Selvaraj

8. Bhuvaneshwari,
D/o. Late. Selvaraj
9. Thangamayil,
W/o. Patchamuthu
10. Chevanthiammal,
D/o. Late. Seeni @ Sivaguruvan Chettiyar
11. Boomadevi,
D/o. Late. Seeni @ Sivaguruvan Chettiyar

.... *Respondents / Defendants*

This petition is filed before this Court on 13.03.2025 and Advocate Thiru. B. Dhanapandian appeared for the Petitioners / Plaintiffs, R1 died. R2 to R4 and R8 were remain set ex-parte in the main suit. Advocate Thiru. Rajaj appeared for R5 to R7 / R9 to R11. Upon hearing the arguments advanced by both side's counsel and upon perusing the available material records, today this Court has delivered the following....

ORDER

1. This petition was filed under order 6 rule 17 & s. 151 of C.P.C. to amend the plaint.
2. **Petition averments in brief:**

The 1st petitioner was the 1st plaintiff in the suit. The 2nd petitioner was the sister of the 1st petitioner. Further the petition contention was that, the main suit was filed for partition and consequential injunction. The main suit was pending for trial. At the time of filing the plaint, the 1st and 2nd items of the properties were not subdivided, thereby the entire extent of the properties were only mentioned in the suit schedule properties. The petitioners while filing the plaint had not mentioned all these details in the plaint. At present the properties were subdivided, hence to amend the properties of the suit and to add another property with the suit as 4th item, the petitioners / plaintiffs filed this petition

to amend the plaint.

3. **Counter averments in brief:** *(Counter of R5 adopted by R6, R7, R9, R10 and R11)*

The respondents filed counter by denying the entire petition contentions and stated that this petition was filed to delay the suit. The petitioners had filed suit without disclosing the subdivision, extent of the land and survey number in the suit properties and at present additionally incorporating another property as 4th item with the suit properties. The suit was filed in the year 2016. This petition has been filed with long delay of 9 years. Further the reason for filing this petition was not explained by this petitioners. Thus this petition is liable to be dismissed.

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

i. Records perused. The petitioner filed this petition for amending the property description in the suit schedule stating the 1st and 2nd items of the suit property were not subdivided at the time of filing plaint but it is necessary to amend the suit based on the present nature of the suit properties. On the other hand, the respondent challenged the petition stating that this petition was filed with false grounds, for delaying the suit proceeding and was filed with wrong details of suit property.

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

iii. The petitioners contention was that the amendment sought to made regarding the present nature of the suit property, without stating the date of subdivision and the reason was stated to add the 4th property. 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 High Court in *S.Maria Francis v. Lordhu mary and ors. (CDJ-2019-MHC-3259)***, as,

“12. Whether the agreement is barred by limitation and whether the petitioner is entitled for the relief of mandatory injunction or relief of recovery of possession can be decided only after the completion of the trial. But an opportunity for the petitioner to put forth his case is to be given. Already the prayer for possession of vacant site was stated in the prayer column.

13. In the above circumstances, this Court deems it fit to permit the petitioner to make necessary amendment in the amendment petition including the prayer for recovery of possession and the necessary Court fee to be paid for all the specific prayer. The order passed by the trial Court is set aside and the matter is remitted back to the trial Court with liberty for the petitioner to carry out necessary amendments in the amendment petition.”

Thus our Hon'ble High Court in the above judgment had decided as, when the nature of amendment was already mentioned in the plaint, the relief shall only be decided on completion of trial alone, hence opportunity must be given to petitioner to contest the case by carrying out the amendment. The judgments of **Our Hon'ble Apex Court** relied upon by the petitioner counsel in *Rajesh kumar agarwal v K.K. Modi (C.A. No. 5350/2002)* and *Baldev singh v. Manohar singh (AIR 2006 SC 2832)*, had decided as, amendment of pleadings to be liberally permitted to decide the real matter in controversy between the parties.

v. Applying the above judgment of Hon'ble High Court to the case in hand, it was found that in the present petition, the petitioner sought to amend the survey number of the existing suit property, based on the present subdivided survey number of the property and also a new property is sought to be added in plaint by amendment. On perusal of entire records before this court, in the suit trial was not yet begun by the petitioners / plaintiffs. Further as mentioned in the petition, the amendment needed to be carried out was to change the survey number of the suit properties and to include another property.

Prayer for partition regarding the same suit properties already exist in the plaint. Hence it is clear that there was no change in the nature of the suit. Since trial was not at all started, such amendments cannot cause prejudice to the respondent. Thus to prevent further litigation between the parties, it is necessary to allow the amendment. The amendment made is subject to the proof let in during trial. Thus as decided by our Hon'ble High Court in the above mentioned verdict, this court finds that the amendment sought by the petitioners can be allowed. Since rightly point out by the learned respondent counsel that, as the suit was of the year 2016, but the petitioners had filed this petition only after delay of 9 years and also the reason for filing this petition to amend the nature of the suit property and for incorporating the 4th item of property in the suit schedule were not properly explained in his pleadings. Thus this court is incline to allow this petition on exemplary cost.

5. **In the result**, the petition is allowed, on cost of Rs.5,000/- to be paid to the contesting respondents 5 and 7 and 9 to 11 on or before the next hearing of the main suit and steps to carry out amendment shall be made without further adjournment.

Directly dictated to the Stenographer and computerized error checked and pronounced in the open court on *the 26th day of June 2025*.

District Munsif,
Vadipatti.

Petitioners side witness and documents :Nil

Respondents side witness and documents:Nil

District Munsif,
Vadipatti.

DISTRICT MUNSIF COURT,
Vadipatti
I.A.No.7/ 2025
in
O.S. No.76 / 2016
Fair Order / Draft Order
Dated: 26.06.2025