

IN THE COURT OF THE SUBORDINATE JUDGE, MELUR.

Present: Tmt. M. SAMUNDEESWARI PRABHA, M.A., M.L.,

Friday, the 12th day of September 2025

I.A.No.5/2025

in

O.S.No.97/2020

P. Manikumarar Petitioner/Plaintiff

// Vs //

1. S. Ramanathan (died)

2. R. Chitra

3. N. Kumaravadivu

4. N. Alex Pandian Respondents/ Defendants

This petition coming up for final hearing before this court on 25.08.2025 in the presence of Advocate.Mr.M.Jeyaraman, Advocate for the Petitioner and Advocate.Mr.R.Rajendraprasad, Advocate for the 2nd respondent and Advocate.Mr.Kalaiselvan, Advocate for the 3rd and 4th respondents and 1st respondent was died and upon hearing the enquiry on both sides and on perusal of the records and having stood over for consideration till this day, this court delivers the following:-

ORDERS

This petition has been filed Under Order 6 Rule 17 and Section 151 of CPC pass an order to amend the petition mentioned details in the main suit.

1. Brief averments of the petition :-

(I) The petitioner is the plaintiff in the original suit. The original suit has been filed by the petitioner/plaintiff for recovery of money. The original deceased 1st defendant had borrowed a sum of Rs.5,00,000/- as a loan and executed a promissory note on 03.07.2019 by agreeing 12% interest for the same in the presence of witnesses and the same was video graph and photos were also taken and in which, the deceased 1st defendant picture was clearly depicted and who was freely without any inducement executed the above said promissory note by receiving the above said amount of Rs.5,00,000/-.

(ii) The above said video graphs and photos with the regard to the execution of promissory note by the deceased 1st defendant has not unfortunately been mentioned in plaint and the petitioner have also deposed the same, while the petitioner have been cross examined by the defendants side. The above said omission unfortunately happened and not willfully concealed and the above said video graph and photos were taken in his own brother P.Ganeshpandian's cell phone and cell phone number and the petitioner always ready to produce for the verification of authenticity of the same if this court has ordered to produce the same and the petitioner have also affluent sources of income from his Vetrivel Jewellery. The petitioner's to prays to amend the body of the plaint after para IV to add new Para IVA. Hence this petition has to be allowed.

2. Brief averments of the counter affidavit filed by the 2nd respondents/2nd defendants and its adopted by 3rd and 4th respondents/defendants :-

(I) The respondent herein is the defendant in the original suit. This petition is not maintainable either in law or on facts. The petitioner has suppressed so many material facts and suggested the false as facts and therefore, this petition is hit by the rule of "Supressio Very and suggestio falsi". This is barred by limitation. Save as otherwise specifically admitted herein, all the other allegations stated in the petition are denied as false, frivolous, vexatious, untenable and high fraudulent and the petitioners are put to strict proof of each and every allegation stated in the petition. The allegations contained in para 3 of the petition is hereby denied as false concocted story created by the petitioner. The petitioner falsely stated that 1st defendant borrowed sum of Rs.5,00,000/- as a loan and executed a promissory note on 03.07.2019 by agreeing 12% interest for the same in the presence of witnesses and the same was video graphed and photos were also taken and in which 1st defendant picture was clearly depicted and who was freely without any inducement executed the above said promissory note by the above said amount of Rs.5,00,000/-.

(ii) The petitioner stated that video graphs and photos with regard to execution of promissory note has not unfortunately been mentioned in the plaint. The reason amendment the plaint mentioned in his petition that unfortunately has not been mentioned. Unfortunately are not reasons for amendment the plaint after 5 years. The 2nd respondent

filed written statement on 31.07.2023 by denied the execution of the promissory note. Then the petitioner was examined PW1 on 07.2.2024 without mentioned video and photo graphs. After that the Pw1 is not appeared for cross examination and the petitioner issued a legal notice on 03.07.2024 without mentioned Video and Photo graphs. Then the petitioner filed a petition to receive additional documents petition and re-open petition in I.A.No.1/2024 and I.A.No.2/2024 and the same also has not been mentioned video and photo graphs. Now the petitioner filed this petition only on 03.03.2025. The petitioner has not been mentioned the video and photo dates.

(iii) After 5 years of alleged taken video and photo graphs, after one year of PW1 examination and after 581 days of filing written statement, this petition was filed. There is no explanation in this petition for delay of 5 1/2 years of taking video and photo graphs, 581 days after filing written statement, one year after PW1 examination. As per the provisions of law, the petitioner has no locus standi to amend the plaint after the commencement of the trail, PW1 examined and cross examined. The main case is posted for plaintiff's side further evidence. The petitioner came to this petition to new pleading with new facts. The petitioner mentioned in his petition that one P.Ganeshpandian is own brother of the petitioner. The said P.Ganeshpandian, Tamilselvam and Kanjeevanam were colluded and created a fabricated documents for grab the house and they were threatened to vacated the house. In this regard, the 3rd respondent made a complaint and a case was registered against the said Ganeshpandian, Tamilselvam and Kanjeevanam in

Cr.No.144/2020. After filing this petition, we came to knowledge that the petitioner and the above said Ganeshpandian, Tamilselvam and Kanjeevanam colluded and filed this suit. Hence this petition has to be dismissed with costs.

3. The point for consideration aroused is that :-

Whether the petition has to be allowed or not ?

4. Point :-

Both sides heard. Records perused. This petition has been filed to add some pleadings with respect to the videographs and photos with regard to the execution of the suit promissory note. The above facts have been omitted in the suit.

Moreover, the suit has been posted in the stage of further PWs and at this stage this petition with some pleadings were proposed to be inserted. After the commencement of trial, with due diligence the omitted facts could be included before only the amendment is allowed. Otherwise it will cause much hardship and prejudice to the defendant side. The execution of promissory note can be proved by way of adducing oral and other documents.

5. Result:-

In the result, this petition is dismissed. No costs.

Dictated to the Steno Typist by me, and typed by her directly, corrected and pronounced by me in open court, this the 12th day of September 2025.

Sub Judge,
Melur.

Petitioners and Respondent both sides witness and documents : Nil

Sub Judge,
Melur.

Draft/Fair Order
in
IA.No.5/2025
in
O.S.No.97/2020
Dt : 12.09.2025
Sub Court, Melur.