

IN THE COURT OF THE SUBORDINATE JUDGE, MELUR.

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

Thursday, the 2nd day of July 2026

I.A.No.3/2026

in

O.S.No.247/2022

Malaichamy Petitioner/Plaintiff

// Vs //

Murugesan Respondent/Defendant

This petition coming up for final hearing before this court on 29.06.2026 in the presence of Advocate.Mr.S.Nallalagu Sakthivel, Advocate for the petitioner and Advocate.Mr.R.Kannan, Advocate for the respondent and upon hearing the enquiry on both sides, 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 alternative relief in the suit for specific performance of contract of sale.

1. Brief averments of the petition :-

The petitioner herein is the plaintiff in the original suit. In the above case, it has now hearing to cross-examine the defendant. It has only recently come to light that the petitioner has not sought alternative relief in the case. As per the advice of the petitioner's advocate, this petition is being filed by the above petitioner seeking an alternative relief in the original suit and seeking amendment. Hence this petition has to be allowed.

2. Brief averments of the counter affidavit filed by the respondent/defendant :-

(I) The respondent herein is the defendant in the original suit. The respondent admitted averments hereunder, all the other averments is denied as false. The above original suit has arisen to hear evidence on his behalf. In that situation, the petitioner has been filed with bad intention of changing the direction of the case. During the cross examination of the plaintiff, Ex.B1 was marked by admitting that the interest and principal were received and Ex.B2 was marked by admitting that the promissory note. Thus, it has been proven that the

suit filed by the plaintiff is entirely baseless and that the money was borrowed on interest.

(ii) The above plaintiff should have filed a motion for amendment before the commencement of the trial. It is not appropriate for the plaintiff to have filed a motion for amendment of the judgment in a manner that would change the nature of the case while the plaintiff's evidence is being heard and the defendant's evidence is being heard. It is not appropriate for the above mentioned plaintiff to withdraw this suit and file a fresh 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 :-

4.1 Both sides heard. Records perused. This petition has been filed for seeking alternative relief in the suit for specific performance of contract of sale.

4.2 The suit has been filed by the plaintiff for execution of sale deed but the alternative relief of recovery of money wasn't prayed for. Hence if the petitioner/plaintiff has not got the relief of execution of sale deed

without alternative prayer, then separate suit for recovery of money could not be claimed. Hence in order to avoid technicalities, this petition is allowed.

5. Result:-

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

Dictated to the Steno Typist by me, and typed by her directly, corrected and pronounced by me in open court, this the 2nd day of July 2026.

**Sub Judge,
Melur.**

Both sides of witness and documents : Nil

**Sub Judge,
Melur.**

**Draft/Fair Order
in
IA.No.3/2026
in
O.S.No.247/2022
Date : 02.07.2026
Sub Court,
Melur.**