

IN THE COURT OF THE DISTRICT MUNSIF OF UDHAGAMANDALAM

Present: **Thiru. L.PRAKASH, B.Sc., B.L.,**
DISTRICT MUNSIF, UDHAGAMANDALAM.

Saturday, the 06th day of June 2026

I.A. No. 10 of 2026
in
O.S. No. 01 of 2016
(C.N.R. No. TNNS030 – 00003 - 2016)

The Commissioner,

Udhagamandalam Municipality.

... Petitioner/Defendant No. 2

/Vs/

L. Kumar

... Respondent/Plaintiff

/Vs/

Jayamma and others

... Respondents/Defendants

This petition came on 24.04.2026 for final hearing before me in the presence of Mrs. K. Menega, learned Counsel for the Petitioner/Defendant No. 2 and of Mr. Chandramohan, learned Counsel appearing for the Respondent/Plaintiff and of Mr. N. Narayanan Kutty, learned Counsel for the Respondent/Defendant No. 6 and the Respondent/Defendant No. 7 remains exparte in the main suit and the Respondent/Defendant No. 8 remains exparte and the Respondents/ Defendants No. 3, 4 and 9 reported dead, upon hearing both sides, and upon considering case records carefully, this court passes the following

ORDER

1. This petition is filed Under Section 151 of the Code of Civil Procedure, praying to permit the petitioner/2nd defendant to amend proof affidavit (DW3) by correct the description of the document No. 2.

Gist of Petition and affidavit:

2. The petitioner/2nd defendant states that, he has filed the proof affidavit (DW3) before the court, due to inadvertence the description of document No. 2 mentioned in the proof affidavit was not properly stated, and it is necessary to amend the same to correcting the description of the document No. 2. The said amendment is only clarification in nature and does not change the nature of defence and no prejudice would be caused to the plaintiff if the amendment is allowed. Hence prays to permit him to amend the Proof Affidavit (DW3) by correcting the description of the document No. 2.

Gist of Counter statement of Respondent/plaintiff:

3. The respondent/plaintiff in his counter statement opposing the petition, it is contended that, the petition is false, frivolous and unsustainable both in law and on facts of the case. He confirmed that, the petitioner has filed the proof affidavit and produced seven documents. The description of the documents filed along with the proof affidavit are seven in number and exhibited are four in number. The description of the documents sought to be exhibited and amended are not properly mentioned in the affidavit, which the respondent/plaintiff confused. The amendment sought for after the commencement of the trial cannot be allowed at the fag end of the trial. Hence prays to dismiss the petition with compensatory costs.

4. On the other hand the respondent/defendant No. 6 endorsed "No Counter" for this petition and the respondent/defendant No. 8 has not filed any counter despite sufficient time given, and set exparte. Hence the respondents/defendants No. 6 and 8 has not filed any counter for this petition.

Discussion:

5. Heard both sides. Petition, counter statement and records perused. This petition is filed under Section 151 of the Code of Civil Procedure,

praying to permit the petitioner/2nd defendant to amend the proof affidavit (DW3) by correcting the description of Document No.2. The case of the petitioner/2nd defendant is that he has already filed his proof affidavit as DW3. Due to inadvertence, the description of Document No.2 was not properly stated in the proof affidavit. According to him, the proposed amendment is only to correctly describe the document and is clarificatory in nature. It does not alter the nature of the defence or introduce any new plea. Therefore, he seeks permission to amend the proof affidavit.

6. The respondent/plaintiff filed a counter statement opposing the petition contending that the petition is false, frivolous and not maintainable. According to the respondent/plaintiff, the petitioner had already filed the proof affidavit and produced seven documents, out of which four documents were exhibited. The description of the documents sought to be amended was not properly mentioned in the affidavit, causing confusion to the plaintiff. It is further contended that the petition has been filed after commencement of trial and at the fag end of the proceedings and therefore the same is liable to be dismissed with costs.

7. The respondent/defendant No.6 endorsed "No Counter". The respondent/defendant No.8 has not filed any counter despite sufficient opportunity and was set ex parte. Hence, respondents/defendants Nos.6 and 8 have not seriously opposed the petition.

8. The original suit has been filed in the year 2016 for the reliefs of declaration and consequential permanent injunction. The suit is now at the stage of evidence on the side of the 2nd defendant. The evidence on the side of defendants 6 and 8 has already been closed. It is seen from the records that the 2nd defendant had earlier been set ex parte and thereafter got the ex parte order set aside and filed his proof affidavit as DW3. The present petition has been filed only for correcting the description of Document No.2 mentioned in the proof affidavit.

9. The proposed amendment does not seek to introduce any new document, new defence or new factual plea. The petitioner only seeks to correct the description of an already referred document in the proof affidavit. Such correction is essentially clarificatory in nature. The respondent/plaintiff will have sufficient opportunity to cross-examine the witness regarding the document and therefore no irreparable prejudice would be caused to the respondent/plaintiff if the amendment is permitted.

10. It is well settled that procedural laws are intended to advance the cause of justice and not to defeat it. The Hon'ble Supreme Court in ***Sushil Kumar Jain v. Manoj Kumar and Another, (2009) 14 SCC 38***, observed that procedural provisions are handmaids of justice and should be construed to advance substantial justice. Similarly, the Hon'ble Supreme Court has repeatedly held that unless serious prejudice is caused to the opposite party, procedural defects and curable mistakes may be permitted to be rectified in order to enable effective adjudication of the dispute.

11. At the same time, this Court cannot ignore the fact that the suit is of the year 2016 and has been pending for more than ten years. Therefore, while permitting the correction sought by the petitioner, appropriate costs have to be imposed so as to compensate the respondent/plaintiff and to ensure expeditious progress of the suit.

12. Considering the nature of the amendment sought, the stage of the proceedings and in the interest of justice, this Court is of the view that the petition can be allowed on terms.

RESULT:

13. ***In the result, this petition is allowed subject to payment of costs of Rs.500/- (Rupees Five Hundred only) by the petitioner/2nd defendant to the respondent No.1/plaintiff on or before 09.06.2026.***

14. The petitioner/2nd defendant is permitted to amend the description of Document No.2 in the proof affidavit of DW3 as prayed for.

15. The petitioner/2nd defendant is further directed to proceed with the examination of witnesses and co-operate for early disposal of the suit without seeking unnecessary adjournments, considering that the suit is of the year 2016.

16. Post on 09.06.2026 for reporting compliance of payment of costs.

This order is dictated to the steno - typist, typed by her in computer, corrected by me and pronounced by me in the open court on this 06th day of June 2026.

**District Munsif,
Udhagamandalam.**

Draft/Fair Order:

**I.A. No. 10/2026
in
O.S. No. 01/2016**

Date: **06.06.2026**

**District Munsif Court,
Udhagamandalam.**