

**IN THE COURT OF THE I ADDITIONAL DISTRICT JUDGE
RANIPET, RANIPET DISTRICT.**

**Present: Thiru.A.BALAKRISHNAN, B.B.A., L.L.B.,
I Additional District Judge,
Ranipet.**

Monday, this the 8th day of September 2025

**I.A.No. 4 OF 2024
in
O.S.No. 9 OF 2022**

...

Balaji

... Petitioner/Plaintiff

-Vs-

1. M. Elumalai

...Respondent/Defendant

2. M. Babu

.....Respondent/Proposed Defendant.

This petition is coming before me for final hearing on 20.08.2025 in the presence of Thiru.R.Pandurangan, Advocate for Petitioner/Plaintiff and Thiru.A.Kutbudeen, Advocate for 1st respondent/defendant and Tmt.K. Sujatha, Advocate for the 2nd respondent/proposed defendant and upon hearing the arguments of both side and on perusal of all connected material records and having stood over for consideration till this date, this court passed the following;-

ORDER

The petitioner/plaintiff has filed the application U/o 6 Rule 17 CPC, seeking an order for amendment of the plaint.

1. Crux of the affidavit is as follows:-

The petitioner/plaintiff filed the above suit for the relief of specific performance of contract of sale as against the first respondent based upon the sale agreement executed by him. The first respondent also filed his

written statement. Thereafter, when the case was posted for cross examination of PW1, the first respondent has filed an application to receive additional written statement and only after perusal of his additional written statement, the petitioner/plaintiff came to understand that there was a collusive suit in O.S.No.19/2022 between the first respondent and second respondent with regard to the suit property and in which submitted decree was passed by this court on 29.07.2022. Hence the petitioner/plaintiff filed an application to implead the second respondent in the suit for proper adjudication and the same was allowed by this court on 6.7.2024. Hence it is necessary to amend the plaint as detailed in the accompanying petition.

2. Nutshell of the counters filed on the side of 1st and 2nd respondent is as follows:-

The petition filed on behalf of the petitioner is not maintainable both in law and on facts. The petition with regard to Order 6 Rule 17 CPC is beyond the scope of the case. The entire cause of auction will be changed and at any point of time the petition cannot be allowed. The decree obtained by the second defendant is a genuine one and it is valid and enforceable under the law. The petitioner is incompetent to question the validity of the decree which has been obtained by the second respondent against the first respondent in OS.No. 19 of 2022. There is no fraud, misrepresentation or any sort of game played before the court. The petitioner has to stick on to his own pleadings and he cannot change the entire character of the case. The first respondent has got every right to deal with the 2nd respondent since it is a decree which has been submitted by the party in the presence of the counsels and inside the court. The petitioner is incompetent to add the unnecessary prayers without any sort of reason. Hence the petition may be dismissed.

3. Point for determination is :-

Whether the application filed by the Petitioner/Plaintiff for amendment of the plaint is deserved to be allowed?

Point :- (a) The petitioner/Plaintiff has sought the proposed amendment in the plaint to add the 2nd respondent as 2nd defendant in the cause titles of plaint and also to include the new prayers 1) to declare the sale agreement dated 28.01.2019 entered between the defendants 1 and 2 as null and void and; 2) to declare the decree passed in O.S.No.19/2022 dated 29.07.2022 on the file of II Additional District Court, Ranipet (Now I Additional District Court, Ranipet) as null and void.

b) The petitioner/Plaintiff has stated in the affidavit that after having knowledge through the additional written statement filed by the 1st defendant about the decree passed in O.S.No.19/2022 in favour of the 2nd respondent as against the 1st respondent/1st defendant, he had filed an application to implead the 2nd respondent as 2nd defendant in the present suit for proper adjudication and the same was allowed by this court on 06.07.2024 and hence the proposed amendments are absolutely necessary.

c) The respondents 1 and 2, even though filed two separate counters in this application, the averments in both the counters are similar and one and the same. The respondents 1 and 2 have contended that the decree passed by this court in O.S.No.19/2022 in favour of the 2nd respondent as against the 1st respondent is a valid decree and the petitioner is incompetent to question the above decree as the 1st respondent has got every right to execute sale agreement in favour of the 2nd respondent in respect of the suit property.

d) It is to be noted that after chief examination of PW1 and when the case was posted for cross examination of PW1, the 1st respondent had filed an application U/o 8 Rule 9 CPC, seeking permission to file additional written statement and the said application, after hearing both parties was allowed on 19.03.2024. In the additional written statement filed by the 1st defendant, it has been stated that the 2nd respondent has filed a suit for specific performance of contract and for permanent injunction in respect of the suit property as against the 1st respondent in O.S.No.19/2022 and the 1st respondent appeared and submitted to pass a decree and hence the said suit in O.S.No.19/2022 was decreed in this court by ordering the 1st respondent to execute the sale deed within 2 months. It is pertinent to be noted that the 1st respondent himself has specifically stated in the additional written statement that the court has to give a direction to the plaintiff to take steps to implead the 2nd respondent for proper adjudication. But now the 1st respondent has seriously objected for allowing this application.

e) It is to be noted that the petitioner/plaintiff has filed the application in I.A.No.3/2022 U/o 1 Rule 10(2) CPC, seeking an order to implead the 2nd respondent in the suit as 2nd defendant. In the said application, the 1st respondent has not filed any counter and hence he was set exparte. The proposed party who is the 2nd respondent herein had filed his counter in the said application and after hearing the parties, this court had allowed the said application on 06.07.2024. In consequence of the order passed in I.A.No.3/2022 dated 06.07.2024, the petitioner/plaintiff has filed the present application to add the name of the 2nd respondent in the plaint as 2nd defendant and also to include new prayers in respect of the alleged sale agreement in favour of 2nd respondent and also in respect of the decree passed in O.S.No.19/2022.

f) The main contention of the respondents is that the petitioner/Plaintiff has no locus standi to question the decree in O.S.No.19/2022 as the 1st respondent has got every right to deal with the 2nd respondent in respect of the suit property. The petitioner/plaintiff has filed the above suit as against the 1st respondent for the relief of specific performance of contract on the basis of unregistered sale agreement dated 04.08.2021 and also for the alternative relief for refund of advance sale amount of Rs.9,70,000/-. It is seen from the averments in the affidavit and counters filed in the present application that the 1st respondent had executed a sale agreement in favour of the 2nd respondent on 28.01.2019. It seems that the alleged sale agreement executed by the 1st respondent infavour of the 2nd respondent is much earlier to the agreement alleged to be executed by the 1st respondent in favour of the plaintiff herein. But the plaintiff has strongly alleged that the respondents 1 and 2 had fraudulently created the sale agreement dated 28.01.2019 by purchasing the stamp papers from Chennai and they have filed the suit in O.S.No.19/2022 collusively to cheat the plaintiff.

g) It is to be noted that the petitioner/plaintiff has prayed the relief of Specific Performance of sale agreement alleged to be executed by the 1st respondent or in the alternative for refund of advance sale amount. If any findings given or any decision is taken in this suit without touching upon the previous decree passed by this court in O.S.No.19/2022, it will lead multiplicity of proceedings in future. At this stage, it is not possible to decide as to which one of the sale agreements executed by the 1st respondent is true and enforceable in law. Likewise, it cannot be decided without examining the parties and without hearing the parties as to whether the decree in O.S.No.19/2022 is a valid decree or collusive decree obtained by the respondents 1 and 2 to defraud the claim of the plaintiff.

h) It is significant to be noted that the 2nd respondent has not challenged the order passed in I.A.No.3/2022 to implead him in the suit as 2nd defendant. When this court has already allowed the application in I.A.No.3/2022 to implead the 2nd respondent as 2nd defendant in the suit, if the proposed amendments with regard to new prayers are not allowed, no purpose will be served in impleading the 2nd respondent as a party to the suit. Since the present suit is also for the same relief of Specific Performance of sale agreement alleged to be executed by the 1st respondent, unless the sale agreement executed by 1st respondent in favour of the 2nd respondent is questioned and unless the decree in O.S.No.19/2022 is challenged in this suit, there will not be any proper and complete adjudication in this case. It will not only cause prejudice to the plaintiff but also to the 2nd respondent. Mere allowing the plaintiff to add prayers of declaration in respect of alleged sale agreement executed by the 1st respondent in favour of 2nd respondent as null and void and also in respect of the decree in O.S.No.19/2022 as null and void, it will not cause any prejudice to the 2nd respondent as he will be given full opportunity to participate in the trial and adduce his oral and documentary evidence in the suit. Hence the application for amendment is deserved to be allowed. This point is answered accordingly.

In the result, the application is allowed. There shall be no order as to cost.

Dictated by me to the Steno-typist transcribed and typed by her in the computer, corrected and pronounced by me in the open court, on this the 8th day of September 2025.

I Additional District Judge,
Ranipet.