

years of this suit the petitioner filed this application without sufficient reasons hence, it is not maintainable.

The learned counsel for respondents 8 to 10 had submitted that the petitioner comes with the present application, to insert new things which are totally contradictory to the already pleaded in the plaint and the petition mentioned survey Nos. are not part of the suit properties nor are there any pleadings regarding the above said S.No. and there is no pleadings as to whom the properties in the above S.Nos. belong and there are no pleadings to correlate as to how the properties in the proposed amendment is connected to the earlier 7th item in the plaint hence, without such pleadings this respondent is unable to identify the properties stated in the proposed 7th item as per the amendment petition and this causes great prejudice to this respondent as he will be unable to make a proper pleadings. Further submitted that the original plaint states that the 1st property is the 7th item of the suit property is a terraced house which is

I.A.No.01/2021

IN

O.S.No.472/2006

13-09-2021

Heard both side. Records perused.

On due consideration of both side arguments and perusal of materials available on records this Court is observed that this application has been filed by the petitioner/plaintiff to amend the plaint to remove the 7th item of suit properties and to incorporate certain properties as 7th item of suit properties.

The learned counsel for petitioner/plaintiff would submit that since the petitioner is being an illiterate she was unable to get the full particulars of the joint family properties in time and through RTI Act, she got all the particulars of the petition mentioned properties from the revenue official on 22-01-2021 only hence, she is coming with amendment application to incorporate those properties as suit properties.

Per contra the learned counsel for respondents 1 to 4 stated that after 14

correct but in the proposed amendment there is no terraced house, instead only a tiled house is shown which is totally false and without a valid reason the petitioner cannot totally change the suit property and the original pleadings contains the boundaries and the door Nos. for each houses stated in the 7th item of the suit properties but the proposed amendment do not contain either the Door Nos. Or the boundaries to the houses hence, without them it is impossible to identify the suit properties and such omission is against the mandate stipulated in Order 7 Rule 3 of Civil Procedure Code and the suit being one for partition and separate possession and in the event of the suit is being decreed dividing the suit properties to various parties, they have to pay the stamp duty in respect of their respective shares for the final decree being drafted and the proposed amendment does not disclose the value of the item of the suit properties it is liable to be dismissed as it is against the mandate of the Civil Procedure Code.

From the above submission of both parties and materials available on records

it is evident that the suit has been filed by the petitioner/plaintiff in the year of 2006 for seeking the relief of declaration of title over the A' schedule property and an alternative relief of partition of 7/36 shares in B' schedule property against the respondents/defendants and the B'schedule contains 7 items of properties and it has been valued at the time of filing the suit for Rs.87,500/-. Now the petitioner filed this application by removing the 7th item of B' schedule property totally and incorporate certain properties as 7th item with survey numbers. As rightly stated by the respondents the reasons set out for delay of the proposed amendment is not sufficient and the proposed amendment dose not disclose the particulars of the petition mentioned properties belongs to whom and how she is entitled to get shares over it and boundaries for the proposed survey numbers. Further, it is pertinent to note that in the original plaint the 7th item discloses the boundaries and its valuation for the four properties but the proposed amendment dose not discloses the above said facts. Further the nature of house in A' part of 7th item

is changed in the proposed amendment and it also discloses the extent of the properties hence, the petition mentioned properties should be valued properly.

As per the above consideration this Court is concluded that in a suit for partition the properties available for partition should be included for complete adjudication and the partial partition is not maintainable in law. Since, the petitioner seeking relief over the 7th item properties for partition, for complete adjudication in this case and to avoid multiplicity of proceedings this court is dismissed this application with a liberty granted to the petitioner/plaintiff to file fresh application with all necessary particulars of the proposed amendment properties.

sd/-A.NarmathaRani

**Additional District Munsif,
Attur.**