

IN THE COURT OF THE DISTRICT MUNSIF, DEVAKOTTAI

PRESENT : Tmt.R.PREMI, B.A., L.L.B., (Hons).,

District Munsif, Devakottai

Monday, the 23rd day of March, 2026

IA.No.07/2025

in

OS.No.79/2019

C.Saravanan

...Petitioner

-Vs-

1. Chinnakannan

2. Chedambaram

3. *M.Kalaiselvi*

4. K.Manjula

5. S.Latha

6. The Branch Manager, Bank of Baroda,

7. Kaliyammal

8. Pushpa

9. Gandhi

...Respondents

(Amended as per Order in I.A.No.1/2021 dated 22.03.2022)

This petition is coming before me for final disposal in the presence of Thiru.Leninia Selvan learned advocate for the Petitioner, Thiru.N.Ramji learned advocate for the R1 and R2, wheareas R3 to R9 was set-Exparte. Having heard of both side enquiry and upon perusing the documents, this court do hereby pronounce the following...

ORDER

The petition is filed under Order VI and Rule 17 of CPC

1. The averments in the petition are as follows:

The petitioner is the plaintiff in the main suit. The plaintiff has filed the suit for permanent injunction. The petitioner has already filed an application for interim injunction in I.A.No. 1/2019, which was dismissed by this court, against which CMA has been filed by the petitioner and is pending as CMA.No. 3/2023. The petitioner states that when the suit property of survey number 38/3 to an extent of 42 cents in which house has been built and the survey number 38/4A2 of 28 cents, when partitioned equally, the petitioner was allotted the area in survey number 38/4A2 which is next to the Southern part of survey number 38/3 which was allotted to this petitioner and the 14 cents which is along side the Nagadi Panchayat Road has been allotted to the respondent. But due to negligence and the peer pressure from the family and due to tiredness from travelling between Chennai and his hometown, the petitioner has mistakenly mentioned in his prayer as Southern part of the property instead of northern part of the property. The petitioner states that allowing this petition would not cause any loss to the respondent. But if the petition is not allowed, he would be subject to irreparable loss and injury. Hence, he prays for the petition to be allowed.

2. Averments in the counter are as follows:

The respondent has denied the contentions of the petition and states that the petitioner has filed this petition without stating any reason as to why the property description should be changed in the plaint and also he did not file any documents with respect to the same. The petitioner has filed the suit in the year of 2019. Along with the suit, he has also filed an interim application number 1/2019. The said interim application was dismissed by the court on 17/02/2023

against which the petitioner has filed CMA No. 3/2023 before the Honourable Sub-Court of Devakottai. While the said CMA is pending, if the property description of the suit is changed, it would also affect the CMA pending before the appellate forum. Despite knowing this, he has filed this petition. The respondent has also stated that the suit has been pending at the stage of trial since 18/07/2024 and the court has framed issues and has asked to produce a list of witnesses to be produced by the both sides. That being so, the petitioner has filed this petition. The respondent states that the petitioner has filed this petition only with an intent to drag on the proceedings of the case. Hence, he prayed for the petition to be dismissed.

3. Now the question to be decided is whether the petition has to be allowed or not?

3(i). Petition and counter perused. Enquiry heard on both sides. The petition has been filed to amend the prayer with respect to survey number 38/4A2 as the petitioner has wrongly stated as Southern part of the said survey number instead of Northern part and has stated the reason as negligence and carelessness. On the other hand, the respondent has denied the contention of the petition and has stated that the property description cannot be changed now as a CMA with the same property description is pending and amending the property details would affect the CMA also. Both side averments perused. On perusal of records, it becomes clear that the suit has been filed by the plaintiff for two suit properties as survey number 38/3 and survey number 38/4A2. On perusal of the plaint filed by the plaintiff, it becomes clear that the plaintiff has stated in detail as to how the survey number 38/4A2 and survey number 38/3 was partitioned between the plaintiff and the 1st defendant and has also produced a rough sketch to show the exact position of those two properties. Also, the property description in the plaint

has also been clearly mentioned as to Southern part in survey number 38/3 and Northern part in survey number 38/4A2. But the plaintiff in the prayer has wrongly stated as Southern part of the survey number 38/4A2, which the petitioner seeks to rectify now by filing this petition. The learned counsel for the respondent has argued that the suit property description cannot be amended at this stage as a CMA has also been filed and pending with the same property description that existed earlier and amending the plaint now would affect the CMA also. But on perusal of records, it becomes clear that what the petitioner seeks to amend is not the property description in the plaint, but a clerical error in the prayer. As stated above, on a complete reading of the plaint, it becomes clear that the plaintiff has described regarding the partition of both the properties and how he was allotted the Northern part of survey number 38/4A2. But only in the prayer, he has mistakenly mentioned it as Southern part.

3(ii). Moreover, the interim application filed in I.A.No. 1/2019, praying for the relief of an interim injunction until the disposal of the suit also, the prayer was stated with respect to the Southern portion of survey number 38/3 and Northern portion of survey number 38/4A2 and the property description in the said application also states the same. This is also supported by the rough sketch produced by the plaintiff. Hence the argument put forth by the respondent counsel that the petitioner is seeking to amend the property description of the plaint and that it would affect the CMA cannot be considered as valid, as what the petitioner has sought to amend is not the property description in the plaint, but only the clerical mistake in the prayer. It is also to be taken into consideration that the trial has not commenced in the suit and this court has powers to allow amendment at any stage if the amendment is essential for effective disposal of the case and is not frivolous or vexatious and to avoid

multiplicity of proceedings. Hence, the court hereby considers that no harm could be caused to the respondent by allowing this amendment as it is only a clerical error, which becomes clear on perusal of the plaint in its entirety. But, on the other hand not allowing this amendment would prejudice the plaintiff. Hence, the court hereby concludes that this amendment can be allowed as it is important for effective disposal of the case. Hence, in the end, the petition is allowed. No order as to cost.

4. Decision

In the end, the petition is allowed. No order as to cost.

This Order was dictated by me, typed by the steno-typist, corrected by me and pronounced by me in the open court on 23rd day of March 2026.

**District Munsif,
Devakottai.**

Annexures:

List of witnesses on the side of the Petitioners-Nil-

List of documents on the side of the Petitioners-Nil-

List of witnesses on the side of the Respondents-Nil-

List of documents on the side of the Respondents-Nil-

**District Munsif,
Devakottai.**