

**IN THE COURT OF THE ADDITIONAL SUBORDINATE JUDGE,
TIRUPPUR**

Present :- Thiru. K.R.Kannan,B.A., B.L.,
(J.O.Code.TN01220)
Additional Subordinate Judge,
Tiruppur.

Wednesday the 02nd day of April 2025

I.A. No. 1 / 2025

in

O.S. No. 411 / 2019

1. P. Ganapathy Gounder (died)

2. G. Balasubramaniam

... Petitioners / Plaintiffs

//Vs//

1. Lakshmi

2. Ramathal

3. Subbaiyan

4. Ponnusamy

5. The Sub-Registrar, Joint-I, Tiruppur,

6. The Village Administrative Officer, Iduvai Village

7. The Tahsildar, Tiruppur Taluk

8. The State Rep, by District Collector,

9. Valarmathi

10. Kamalraj

11. Kavitha

12. Valarmathi

... Respondents/Defendants

This petition came before me on 26.03.2025 for final hearing in the presence of Tmt.P.Suresh,B.A.,B.L., Learned Advocate for Petitioners/Plaintiffs and Thiru.R.Ragupathy,B.A.,B.L., Learned Advocate for 1 to 3, 4 and 9 to 12 Respondents/defendants and after hearing both side arguments and on perusal of available records, this court passed the following :

// ORDER //

The 2nd Petitioner/ 2nd Plaintiff filed this petition Under Order VI Rule 17 of CPC to amend the plaint as per the averments stated in the affidavit filed along with this petition.

2. The averments stated in the affidavit is as follows :-

2.1) The petitioners herein are the plaintiffs in the suit. The petitioner filed the suit against the defendants for declaration and permanent injunction and mandatory injunction as such facts of the case, the contention of the plaint may be read as part and parcel of this affidavit. The above suit is pending and posted for arguments.

2.2) While upon perusing the Plaint in all Plaint pleadings the S.F.No: was rightly said as 115/9, 10. Further, in description of property also rightly said at first stance 115 and at second stance alone due to typographical error number wrongly typed as 155 as follows: "க.ச. 115 நெ.காலை தற்போதைய சப்டிவிஷன் படி க.ச. 155 / 9,10" as such the said 155 needs to be strike off and to amend as 115 as follows; "க.ச.115 நெ.காலை தற்போதைய சப்டிவிஷன் படி க.ச.115 / 9,10". Further, in boundary one letter it was erroneously stated as "க" as follows "113 நெ.காலைக்கம் - மேற்கு " As such the letter "க" is to be to be strike off and to amend as "கு" as follows: "113 நெ. காலைக்கும் மேற்கு" As such amendment needs to be carried out in Plaint and Amended Plaint Hence, this petition.

2.3) The above mistake were happened due to typographical numerical error, oversight and nothing else. This Court had extraordinary powers and this amendment is much necessary towards rendering proper justice. Further, the amendment will no way affect the nature or crux of the case and it would in no way affect the suit proceedings in any manner or whatsoever. It's pertinent to note that the Plaint pleadings the S.F. was rightly said 115, in description of

property also rightly said as 115 in first stance, in second stance alone mistake happened as stated supra. Further, the letter" also wrongly typed as letter "क" and asked this court to allow the same as prayed for with cost.

3. The objections raised by the 4th Respondent adopted by the 1 to 3 and 9 to 12 Respondents are by way of the counter are as follows :-

3.1) The application is not maintainable both in law and on facts. Except such of those allegations which are admitted herein, the petitioners are put to strict proof of other allegations made in the petition.

3.2) The averments stated in para no. 3 of the affidavit is denied. The petition is legally not maintainable and liable to be dismissed.

3.3) The respondents reserved the right for filing additional written statement and asked this Court to be dismiss the petition with cost.

4) Both parties have not examined any evidence and no documents were marked on both side.

5. Now the Point for consideration is whether this petition has to be allowed or not ?

5.1) The Petitioners herein are the plaintiffs and the respondents are the defendants in the suit. The parties are discussed in this order as pleaded in the plaint.

5.2) The plaintiff filed the suit to declare the settlement deed executed by defendants 1 and 2 as null and void and further asked permanent injunction not to alienate the suit property, not to disturb the peaceful possession enjoyment of the plaintiff over the suit property and to grant a mandatory injunction against the 5th defendant not to entertain and registered any documents relating to the suit property.

5.3) On perusal of records, the suit is in the stage of arguments. At this stage, now the plaintiff filed the present application to amend the plaint and the proposed amendments are relating to change of survey number and direction relating to the suit property pleaded in the description of property.

5.4) On perusal of counter the respondents strongly opposed the application on the ground for the past 6 years the plaintiff failed to notice the mistake accrued in the plaint. In the counter it was further stated the present application was filed only to drag on the proceedings and so he asked this Court to dismiss the petition with cost.

5.5) On perusal of records, the suit is filed in the year 2011 and the same is more than 10 years old. Further, more after completion of evidence the suit is now in the stage of arguments. At this, stage the plaintiffs filed the present application to amend the description of property as per the reasons stated in the affidavit filed along with the petition. The only reason stated in the affidavit is the mistakes are only typographical error and wrongly typed. The proposed amendments now sought for are post trial amendments and after completion of evidence on both side. It is settled law after commencement of trial if the proposed amendments will change the nature and character of the suit. Then, the proposed amendments cannot be allowed. But, on perusal of the petition the proposed amendments are only change in survey number and directions relating to the suit property and the same will not change the character and reliefs asked in the suit.

5.6) Hence, in the interest of justice and in order to give a fair opportunity to the plaintiff and to avoid the multiplicity of proceedings this Court is inclined to allow this petition with the following conditions.

1. The proposed amendment will come into effect only on the date of allowing of this petition.

2. The plaintiff is directed to pay a sum of Rs. 2,000/- (Rupees Two Thousands Only) as cost to the defendants on or before 07.04.2025 failing which this petition stands dismissed.
3. The defendants are also permitted to raise all the objections pleaded in the counter by way of additional written statement. Call on 07.04.2025.

Dictated to the Steno-Typist, typed by him directly into the computer, corrected, printed out and pronounced by me in the Open Court on this the 02nd Day of April 2025.

Additional Subordinate Judge,
Tiruppur.

I. Petitioner and Respondent's side Evidences and Documents : Nil

Additional Subordinate Judge,
Tiruppur.