

IN THE COURT OF THE PRINCIPAL DISTRICT MUNSIF, TIRUPPUR.

Present : Thiru.T.PraveenKumar, B.A., B.L.,
(J.O.CODE : TN01942)

Principal District Munsif, Tiruppur.
Wednesday the 23rd day of October 2024.

I.A.No. 592/2024

in

O.S No.09/2019

1.T.Subramaniyagounder (Died)

2.T.S.Shanmugasundaram

3.T.S.Padmanaban

4.T.S.Vadivelu

5.T.S.Sadhasivam

... Petitioners/ Plaintiffs

/Versus/

Karpakam

... Respondent/Defendant

This petition came before me on 26.09.2024 for the final hearing before me in the presence of Thiru.N.Mayilsamy BCA., LLB., Advocate for Petitioners/Plaintiffs and Thiru.N.Sathish B.A., B.L., Advocate for the Respondent/Defendant and after hearing both parties and on perusal of available records, this court passed the following:

ORDER

1.This an application for amendment of Plaintiff filed by the Petitioners/Plaintiffs.

2.The averments in the Petition as follows:

2.1) The Plaintiffs filed the suit against the defendants for the relief of Declaration and permanent injunction.

2.2) The suit property is a cart rack shown in rough sketch that runs from S.F.No.251 (Main road) through the northern side of the S.F.No.253 and S.F.No.454. This cart track is an exclusive cart track for the plaintiffs and those who are in possession of the lands in the aforementioned survey fields. This was specifically stated in plaint.

2.3) The suit property has clearly mentioned the survey fields through which the cart tracks were formed and the above facts were pleaded in plaint. Due to some inadvertence and typographical mistake, the S.F.No.454/1 alone was mentioned in prayer column and in the rough plan, instead of S.F.No.253 and 454/1. This typographical error was spotted only at the time of preparing the proof affidavit, so in order to clear this typographical error and provide a much clearer and definite prayer for effective decision of the case we have immediately come up with this application to amend the prayer column.

3.The averment made in the counter statement as follows:

3.1) The application is false, frivolous, vexatious and not maintainable either in law or on facts.

3.2) The application is filed by the plaintiffs for amending the plaint by adding the S.F.No. in the prayer column and in the rough plan is an after thought. The petitioners has not averred any justifiable reason to allow the application.

3.3) It is the case of the respondent that the petitioners known the particulars of S.F.No. of the pathway, irrigation way and other particulars even at the time of institution of the suit. Therefore, it is not acceptable that there was a typographical error

in the plaint. Therefore, the application is to be dismissed with the cost of the respondent.

4. Now, the point for determination is whether this petition is to be allowed or not?

4.1) This court heard the rival submission of both parties. No oral or documentary evidences on either side.

4.2) The present application is focused by the petitioners/Plaintiffs to add S.F.No. 253 in the plaint prayer column and in the rough sketch. It is the contention of the petitioners that it was an typographical error and the same as been denied by the respondents

4.3) It is evident form the perusal of the plaint in para no.5, it is mentioned as follows. " 5. மேற்கண்ட பாகபிரிவினை பத்திரம் 3 வது தாளில் க.ச.251 நெ இட்டேரி புறம்போக்கில் இருந்து க.ச.253 நெ.க.காலையில் வடக்கு ஓரமாய் கிழமேலாக 454 நெ.காலையில் வடக்கு ஓரமாய் க.ச.453 நெ.காலையில் மேற்கு வேலிவரை கிழமேலாக உள்ள மாமூலம் தடத்தின் வழியாக 3, 4 மற்றும் 5 லக்கம் இட்டவர்கள் அவரவர்கள் பாகத்திற்கு வண்டி வகையறாக்கள் ஒட்டிக்கொள்ள வேண்டியது என்று தெளிவாக கண்டு எழுதப்பட்டு உள்ளது. அதற்கான மாதிரி வரைபடம் இத்துடன் தாக்கல் செய்யப்பட்டுள்ளது."

4.4) A mere perusal of the averments, it is clear that the case of the petitioners that the pathway is leading also in S.F.No.253 which has not been mentioned in the prayer column of the plaint.

4.5) The main suit is in the pre-trial stage and the trial is yet to commenced. It is settled law that pre-trial amendments to be considered liberally. Equally, there is no reason is averred by the petitioners as to why such application has not been filed at the earliest. However, in the interest of the justice and considering nature of the suit and the circumstances of the case, this court of the considered view that this application is to be allowed and the respondent is to be compensated by way of cost. The point is an-

swered accordingly:

In the result,

In fine, this petition will be allowed on payment of cost of Rs.1500/- to the respondent to be paid on or before 29.10.2024 failing which, this application shall stand automatically dismissed. Call on 30.10.2024.

Dictated to the Steno-Typist, directly and typed by him in court computer and corrected and pronounced by me in the open court, on this the 23rd day of October 2024.

Principal District Munsif ,
Tiruppur.

LIST OF WITNESSES & DOCUMENTS

On the side of Petitioner Witnesses & Documents :- NIL

On the side of Respondents Witnesses & Documents :- NIL

Principal District Munsif,
Tiruppur.

Draft / Fair Order

I.A.No.592/2024 in

O.S.No.09/2019

Dated:23.10.2024

PDMC – Tiruppur.