

**IN THE COURT OF THE II ADDITIONAL DISTRICT & SESSIONS
JUDGE, THANJAVUR.**

**Present : Tmt. A. Malarvizhi, M.L.,
II Additional District & Sessions Judge,
Thanjavur.**

**Tuesday the 27th day of June 2023
(Thiruvalluvar Aandu 2054 - Aani Matham 12th day)**

I.A.No.129/2023 in O.S.No.150/2022

A.Varatharajan

...Petitioner/ Plaintiff

/vs/

(1) M. Elavazhagan
(2) M. Mayilvahanan

...Respondents/Defendants

This petition having come up for final hearing before me on 20.06.2023 in the presence of Thiru K. Sureshkumar, Advocate for the Petitioner and of Thiru A. Saravanan, Advocate for the respondents and upon hearing the arguments of both sides, upon perusal of the entire material records pertaining to the case and the matter having stood over for consideration till this date, this court delivered the following

ORDER

(1) This petition is filed by the Petitioner u/o 6 R.17 r/w. Section 151 of C.P.C. to pass an order to amend the address of the defendants as stated in the reasons mentioned in the petition.

(2) Heard Both sides. Records perused. The petitioner/plaintiff filed this petition u/o.6 Rule 17 r/w. Section 151 of C.P.C. The petitioner's counsel argued that

the suit was filed for recovery of mortgage loan. The petitioner/plaintiff mentioned the defendants address in plaint as stated in the mortgage deed. The pre-suit notice was issued to the 1st defendant's Chennai address and the present address of the 2nd defendant. But the petitioner has wrongly mentioned the address of the defendants in plaint as stated in the mortgage deed. This mistake was neither wanton nor careless. The defendants present address has to be amended in the plaint because it is necessary for issuing summons in appeal and notice in execution proceedings. The proposed amendment will not change the nature of the case and will not cause prejudice to the respondents and the petition has to be allowed.

(3) The Respondents' counsel argued that eventhough the pre-suit notice was issued to the 2nd defendant to the present address, the petitioner/plaintiff failed to mention the present address of the defendants in plaint. The petitioner/plaintiff abused the process of court in service of suit summons and notice to the old address. The address of the defendants in plaint is not in accordance with the provisions of Order 6 Rule 14-A of C.P.C. The respondents/defendants filed their address memo with the written statement that did not create just and necessary to amend the plaint. Hence, this petition may be dismissed.

(4) Both side arguments considered. The reason stated by the petitioner is that amendment of the present address is necessary for future service of summons and notices in appeal and execution proceedings, is acceptable one. So this court views that the proposed amendment will not prejudice the defendants. Hence, in the interest of justice, this court inclines to permit the petitioner to amend

the present address of the defendants and decides to allow this petition.

(5) In the result, this petition is allowed.

Dictated to the steno-typist, transcribed by her in computer, corrected and pronounced by me in open court, this the 27th day of June 2023.

(Sd) A. Malarvizhi

II Additional District & Sessions Judge,
Thanjavur.

Petitioner and Respondents side :-

Exhibits and Witnesses : Nil

(Sd) A. Malarvizhi

II Additional District & Sessions Judge,
Thanjavur.

Order

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O.S.No.150/22

Dated: 27.6.2023