

IN THE COURT OF ADDITIONAL DISTRICT MUNSIF, VALLIYOOR

Present: Mithuna.A.Kaiser, B.A., B.L., Additional District Munsif, Valliyoor
Monday, On the day of 7th day of October, 2025.

I.A.No.6/2025

In

O.S.No.152/2012

Mahalingam

.... Petitioner/Plaintiff

-Vs-

1. Shri Pathirakali Amman Kovil,

Vadalivilai, Rep. by its Administrative Committee Head,

Through S. Muthukrishnan

2. Thasildhar,

Radhapuram Taluk

3. State Highways Department,

Government of Tamilnadu,

Valliyoor Division,

Rep, through its Engineer

4. Government of Tamilnadu,

Rep. By District Collector,

Tirunelveli District,

Tirunelveli.

.... Respondents/Defendants

This petition came before this court on 07.10.2025 for a final hearing in the presence of Thiru.T.Veeramohanroy, M.A.,B.L., Learned counsel for the petitioner/plaintiff, Thiru.A.S. Gnanasekhar, M.A.,B.L., Learned counsel for the 1st

Respondent/1st defendant and The Government Pleader, Thiru.V.Muthukrishnan, B.com.,L.L.B., Learned counsel for the 2 to 4 respondents/ 2 to 4 defendants and upon hearing both sides, perusing the case records, and having stood over the consideration till this day, this court hereby delivers the following:

ORDER

The petitioner had filed this petition under Order 6 Rule 17 and Sec. 151 of Civil procedure code, seeking to amend the suit.

1. GIST OF AVERMENTS IN PETITION:

1.1. The petitioner/plaintiff filed this suit for the relief of Permanent Injunction against the 1st Defendant, who is the Temple Administrative Committee, restraining them from interfering with the Plaintiff's right of usage and enjoyment over the Government Road, described as the 2nd Schedule Property. The said road provides access to the Plaintiff's 1st Schedule Property, which is owned and possessed by the Plaintiff.

1.2. The petitioner further stated that the suit is posted for trial. Now, upon the visit and report of the Advocate Commissioner, it has come to the knowledge of the Plaintiff that the survey numbers mentioned in the plaint were subdivided and require correction. Originally, the 2nd Schedule Property was shown as Survey No. 2336 was now subdivided as Survey No.2336/23. Likewise, the 1st Schedule Property, which was originally shown as Survey No. 2032/1, is now resurveyed and subdivided as Re-survey No. 2344/2. It is further submitted that while drafting the plaint, the

Eastern boundary of the 2nd Schedule Property was inadvertently left blank, and due to such inadvertent omission, the schedule description remains incomplete. The said omission occurred purely by oversight and not with any mala fide intention. Therefore amendment of plaint is necessary for the purpose of furnishing correct particulars of the property involved in the suit. As the amendment will not alter the nature of the suit, the petitioner/plaintiff prays for amendment, failing which cause irreparable loss and injury to the petitioner/plaintiff.

2. GIST OF AVERMENTS IN COUNTER FILED BY 1ST RESPONDENT:

2.1. The defendants countered that averments made by the petitioner is false, not maintainable in eyes of law and it should be dismissed at limine. It is submitted that the suit has been pending for nearly 13 years, and only at this belated stage, the petitioner/plaintiff has chosen to file the present petition seeking amendment of the plaint schedule. Such a petition filed after an inordinate delay of 13 years is clearly barred by limitation. The respondents further submit that the re-survey and subdivision of the suit properties were carried out as early as in the year 1997. The petitioner's contention that the re-survey and subdivision occurred recently is false and misleading. The petitioner has been fully aware of the correct survey numbers for more than a decade, and the attempt to plead ignorance now is only an afterthought made with mala fide intention to fill up lacunae in the case. The defendant 2 to 4 filed no counter.

2.2. It is further submitted that the written statement in the present suit was filed by the respondents as early as in the year 2013 itself, wherein the defects and omissions in the schedule of property, particularly the absence of the eastern boundary in the 2nd Schedule Property were specifically pointed out. Hence, the petitioner's present claim that the omission came to their knowledge only recently is factually incorrect and untenable. The respondents submit that permitting such a belated amendment after 13 years of pendency will cause serious prejudice to the defendants, thus prays for dismissal of petition with cost.

3. POINT FOR CONSIDERATION:

Whether the petition under Order 6 Rule 17 and Sec. 151 CPC has to be allowed or not?

3.1. Heard both sides, records perused. The petitioner/plaintiff had filed this petition to amend the survey numbers in suit schedule property, as the Survey No.2336 was now subdivided as Survey No.2336/23 and Survey No.2032/1, was now Resurveyed and subdivided as Survey No.2344/2, therefore in consequence, to amend the 1st schedule of property Survey No. 233/23 in the place of Survey No.2336 and 2nd schedule of property Survey No.2344/2 in the place of Survey No.2032/1. Moreover, to amend or add the eastern boundary of 2nd schedule property as Remaining Government Road.

3.2. Petitioner states that he came to know about the subdivision recently and the missing of Eastern boundary of 2nd schedule property, is neither willful nor

wanton. Hence this petition is necessitated, as per law and facts. In contra the, 1st respondent/1st defendant averred that the petitioner had willfully evaded the Eastern boundary of 2nd schedule property in spite of specific averment raised in written statement and the petitioner/plaintiff was well aware of the subdivision of survey number prior to the suit itself. Hence prayed for dismissal of the petition.

3.3. On perusal of records, it is found that the suit is for the relief of permanent injunction restraining the 1st defendant or his agents from disturbing the enjoyment of plaintiff over the 2nd suit schedule property. Initially the suit is for the Survey.No.2336 and Survey No. 2032/1. Now, the petitioner/plaintiff filed to amend the schedule of property to resurveyed and sub divided survey numbers. On perusal of Commissioner report, which forms part and parcel of the case records it is found that, the suit schedule property is identified by resurveyed and subdivided survey numbers as 2336/23 and 2344/2. Hence the court finds that the amendment regarding the survey number is necessary for effective adjudication of the suit.

3.4. Moreover, in regard to the amendment or adding the Eastern boundary to 2nd schedule property, the court is of view that adding the boundary details is not likely to cause any prejudice to the defendants and it would neither change the cause of action nor it would amount to omission of any admitted facts. Hence the court inclines to allow the petition.

3.5. However, this court is of considered view that, the petitioner/plaintiff had amended the suit more than once, shows the willful intention of the petitioner as no

steps were taken during previous amendment itself. Moreover the petitioner/plaintiff ought to be diligent in promptly seeking the amendment in the plaint at an early stage of the suit and the attitude of petitioner/plaintiff repeatedly seeking amendments in the plaint, is heavily condemnable by this court. Hence it is appropriate to allow the petition with the cost of Rs.1,000 (One Thousand Rupees)

In the result, this petition is Allowed on cost of Rs.1,000 directed to be paid to 1st respondent/1st defendant on or before 10.10.2025, failing which the petition stands dismissed automatically . For reporting compliance call on 10.10.2025.

This Order dictated to the Typist, directly typed in computer by him, corrected and pronounced by me in open Court, on 07th day of October 2025.

Additional District Munsif,
Valliyoor.

Witnesses examined on the side of Petitioner and Respondents: Nil

List of Documents on the side of the Petitioner and Respondents : Nil

Additional District Munsif,
Valliyoor.

Additional District Munsif Court,
Valliyoor

I.A.No.6/2025

in

O.S.No.152/2012

Draft/Fair Order

Dated: 07.10.2025