

**IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE, (FTC)**

**ARANI, TIRUVANNAMALAI DISTRICT.**

**PRESENT: Tmt. K.VIJAYA, B.Sc., B.L.,**

**ADDITIONAL DISTRICT JUDGE, ARANI.**

**TUESDAY, THE 13<sup>th</sup> DAY OF FEBRUARY, 2024**

**I.A.No.03/2023 in O.S.No.20/2019**

N.Priya

... Petitioner/Plaintiff

/Vs./

1. R.Nithiyandham

2. N.Jaganath

3. N.Kotteeswari

...Respondents/1, 2, 3 Defendants

This petition was coming before me for final hearing on 08.02.2024 in the presence of Thiru. J.Ramakrishnan, Advocate for the Petitioner / Plaintiff and of Thiru. C.M.Radhakrishnan, Advocate for the Respondents / Defendants and perusing the relevant records of this case, and having stood over for consideration, till this day, this court delivers the following..

**ORDER**

Petition filed by the petitioner under Order 6, Rule 17 of CPC., to amend the plaint as per the petition and for other orders.

**2. The facts stated in the petition in brief is as follows:-**

The petitioner is the plaintiff in the main suit. The stage of the main suit is cross examination of PW1, the petitioner herein. In view of Ex.A17 and Ex.A18 the 1st defendant, who is father of the petitioner herein purchased 4.88 Acres at Chennavaram Village on 07.08.1994 and 05.04.1995. After gifting 1.06 Acres to Vandavasi Town Panchayat, remaining 3.54 Acres were formed layout into 90 plots and the plots were sold out from 1996. From the sale price, the petitioner's and 2nd defendant's marriages were solemnized. Except that essential expenses like renewating houses are not carried out. But, due to inadvertence, the said 4.88 Acres did not include in this suit and no share was prayed. Similarly, on

26.03.2007 and 12.10.2007, the 1st defendant sold out some portion of the property to Samanda Mudaliyar and Thozhilnesan respectively. On the sale price, on 29.05.2008 the 3rd series of suit property were purchased from the Thangamani and others. The above facts are vital to the suit and as such, the amendment is necessary. Because of sought for amendment, no hardship caused to the respondent herein. Hence, this petition.

**3. Brief narration of counter filed by the 1<sup>st</sup> Respondent and adopted by Respondents 2 and 3 as follows :-**

The Respondents deny the petition averments each and every para of the petition and take a stand on the ground that the Respondent had filed a detailed and elaborate written statement in the main suit by attacking the plaint in all possible manners and thereafter, the petitioner PW1 was cross examined relating to proposed amendment aspects and got many admissions from the mouth of the petitioner. Now, with an ulterior motive to precipitate the admissions obtained by this Respondent from the petitioner, the petitioner has filed this petition as afterthought to fill up the laccuna in the plaint by filing this vexatious petition and to arrest the respondents. Hence, this petition is to be dismissed with costs.

4. On both sides neither exhibits were marked nor witnesses were examined.

**5. The point for determination:-**

Whether the petition is to be allowed?

**6. Point:-**

Heard both sides. Records perused. The main suit is for partition. Since the suit is for partition, it is first and foremost issue is to decide the nature of the suit properties. The sought for amendment properties are already there even before this suit. It is quite natural to add left out properties in the partition suit by amending the plaint. Though the petitioner sought for amendment relating to add some properties, yet, it will not affect the rights of the respondents. But, the respondents having an ample opportunity to agitate the petitioner's claim by filing

additional written statement. Further, no harm is going to be served to the respondents in allowing this petition. Further more, there are so many reported Judgements by the Hon'ble Supreme Court and High Court that the liberal approach is to be considered by allowing the amending the plaint. Considering the facts and circumstances of this case and for effective adjudication, the petition is to be allowed.

**7. In the result,** this petition is allowed. No Costs.

Dictated by me to the Steno typist and typed by her directly, corrected and pronounced by me in open court, this the 13<sup>th</sup> day of February, 2024.

**Sd/- K.Vijaya,  
Additional District Judge,  
Arani.**

**Both Side Witnesses and Exhibits:- Nil.**

**Sd/- K.Vijaya,  
Additional District Judge,  
Arani.**