

IN THE COURT OF THE DISTRICT MUNSIF, PONNERI.

PRESENT: Selvi.A.Keerthana, B.A., L.L.B.,
District Munsif, Ponneri.

Wednesday, the 13th day of August 2025.

I.A.4 of 2022

in

O.S.No.74 of 2013

1. Panchalaimmal
2. Sankar @ Jaisankar
3. Sundar

..... Petitioners/Plaintiffs

Versus

1. Balaji
2. Manju
3. Kala Jain
4. M.Harikrishnan (Deceased) (As per amended in IA.8/23 dated 11.12.2023)
5. V.Selvi
6. A.Baskar
7. Prabavathy (As per amended in IA.8/23 dated 11.12.2023)

..... Respondents/Defendants

This petition came before me on 28.07.2025 for final hearing in the presence of Mr.R.Munuswamy, learned counsel for the petitioners, Mr.R.Krishnaswamy, learned counsels for the Respondents. Upon hearing the arguments made by the learned counsels for the petitioners and the respondents and on perusal of the material case records, this Petition having stood over for consideration till this day, this Court delivers the following

ORDER

1. This application is filed under Order VI Rule 17 R/W Section 151 of CPC to allow this application and permit the petitioners to amend the schedule of property of the suit plaint in OS.No.74 of 2013.

2. Brief averments of the affidavit filed by the Petitioners are as follows:

2.1. The 2nd petitioner herein and 2nd plaintiff in the above suit and the petitioners 1 and 3 who are the petitioner's mother and brother respectively. The suit for declaration and permanent injunction against the defendants in respect of the suit schedule property. The entire extent of land in S.No.85/2, measuring extent of acre 0.52 cents belong to them. However the defendants have created documents illegally in respect of a portion of the land measuring extent of acre 0.26 cents out of acre 0.52 cents in the said survey number and got sub-division of survey number as 85/2A and the remaining extent was assigned with sub-division Survey No.85/2B. The suit property is land, comprised in Survey No.85/2A, which is northern side portion in Survey No.85/2. The sub-division patta was been cancelled at our instance and original patta was restored in our name in Survey No.85/2, now there is no survey No.85/2A and 85/2B since both of them are merged and shown as Survey No.85/2.

2.2. While drafting the suit plaint, in the schedule of property the southern side boundary was shown as the property of Harikrishnan and others and this mistake was happened due to inadvertence and oversight. Hence it is just and necessary to amend the southern side boundary of the suit schedule property as the remaining land in the same survey No.85/2, which belongs to the plaintiffs instead of property of Harikrishnan and others. Hence this petition.

3. Brief averments of the Counter filed by the 1st Respondent and adopted by the Respondents 4, 5 and 6 memo filed and adopted by the respondents 2 and 3 are as follows:

3.1. The petitioners have filed the above suit for declaration. On the other hand, the declaration sought for is to declare the release deed and for permanent injunction. The entire extent in old S.No.85/2 was measuring 52 cents. Though sub-division effected in respect of the land in S.No.85/2 it is denied that the defendants have created documents illegally in respect of a portion of land and got sub-divisions effected as alleged in the petition. The petition pending the suit patta for the suit property has been cancelled at the instance of the plaintiff, that patta was restored in the names of

the plaintiffs for the land in S.No.85/2, that as of now there is no S.No.85/2A and 85/2B, since both of them have been merged and shown in the S.No.85/2 is concerned, the said averments are true. While drafting suit plaint in the schedule of property, the southern boundary was shown as the property of Harikrishnan and others and that the said alleged mistake had happened due to the inadvertence and oversight are all false and to amend the southern boundary of suit property, as the remaining land in the same survey number 85/2.

3.2. The plaintiffs have not only attempts to give the survey number for the suit property as S.No.85/2 part but also they are trying to amend the southern boundary for the suit property. It was never the case of the plaintiffs anywhere in the plaint that the entire land measuring 52 cents in survey number 85/2 belonged to the plaintiffs or that the remaining 26 cents on the south in old survey number 85/2 ever belonged to the plaintiffs. The defendants 2 and 3 have filed a categorical written statement denying the very right and title of the plaintiffs to the present suit property measuring 26 cents in S.No.85/2A and particularly in the written statement filed by the defendants 2 and 3 it has been specifically referred that the entire land in old survey number 85/2 originally belonged to Munusamy, father of the 4th defendant and paternal grand father of this defendant that he gave an extent of 68 cents in a different survey number to the predecessor of the plaintiff and in turn took the entire 52 cents in survey number 85/2, that it was Munusamy Naicker and after him, his sons Harikrishnan and Rajagopal and thereafter this defendant as well as the said Rajagopal were and are in possession and enjoyment of the entire 52 cents of land, the Northern 26 cents being the suit property with this defendant and subsequently with the defendants 2 and 3 and that the southern 26 cents is in possession of Rajagopal, elder brother of Harikrishnan, the 3rd defendant in this suit.

3.3. The suit has been filed in the year 2013 and the written statement on behalf of the 1st defendant was filed as early as 2013 and as for as the defendants 2 and 3 are concerned, they have filed their written statement as early as 2014. Now it is nearly

after 7 years the present application has been pressed in to service and no reason has given has to what prevented them from filing this application immediately after the written statement filed by the defendants 2 and 3 or at least within three years thereafter. The plaintiff are trying to introduce a new case that the plaintiffs are also the owners of the entire land in Survey number 85/2, that is by claiming right to the southern 26 cents as well out of 52 cents in survey no.85/2, which extent of 26 cents was subsequently in survey number 85/2B. The plaintiffs want to amend the survey number and the southern boundary, no particulars/pleadings are sought to be referred in the proposed amended plaint.

3.4. The written statement, it is an admitted case that even before the suit according to the plaintiffs, particularly the defendants 1 and 4 to 6 indulged the illegal acts of creating false documents in respect of the suit property and thereby a cloud has been created upon the alleged plaintiff's title of the suit property. In that event, in all fairness the plaintiffs ought to have filed the suit for declaration of their alleged right and title to the suit property, which has not been done. The suit property nearly after 7 years no efforts have been taken to amend the plaint and the present application has been filed belatedly. The plaintiffs are not amending the prayer as one for declaration of right and title. Hence the application is liable to be dismissed with costs.

4. Evidences :-

Neither the petitioners nor the respondents have placed any oral or documentary evidence before this court.

5. Point for determination :-

Whether this petition can be allowed or not

6. Discussion and Findings :

6.1. After carefully considering the arguments presented by both parties, as well as perusing the records, the petitioners, who are also the plaintiffs in this suit, has filed this petition seeking to amend the southern boundary of the suit property. This

petition is to alter the boundary from the property of Harikrishnan to the remaining land in Survey No.85/2, which belongs to the plaintiffs. The suit is currently at the trial stage, and this amendment petition appears to be a pre-trial amendment. In light of legal precedents, particularly the ruling in the case of *Life Insurance Corporation of India v. Sanjeev Builders Pvt. Ltd. & Anr.*, 2022 SCC OnLine SC 1128, the Hon'ble Supreme Court has emphasized a liberal approach when considering such petitions. The principles governing the amendment of plaints include (a) a preference for a liberal, rather than hyper-technical, approach; (b) allowing amendments when material particulars are missing from the plaint or when new approaches are introduced; and (c) ensuring that the cause of action remains unaltered by the amendment. Applying these principles to the present case, the amendment sought by the petitioner does not appear overly technical. The prayer for amendment aims to correct the description of the property boundaries. In response, the defendants have filed a counter stating that the plaintiffs have filed the suit seeking a declaration regarding the release deed and permanent injunction. The defendants deny that any mistake was made regarding the southern boundary of the property and that the amendment to the southern boundary is unnecessary. Moreover, the defendants argue that the plaintiffs have never claimed ownership of the entire 52 cents in Survey No.85/2. They submit that the southern 26 cents of land in the original Survey No.85/2 was always in the possession of Rajagopal, the elder brother of Harikrishnan, who is also a defendant in this suit. The defendants further contend that the plaintiffs are attempting to introduce a new claim over the southern portion of the land, despite this land never having been part of their ownership. The defendants highlight that the plaintiffs have not taken any action to amend the plaint for nearly seven years after filing the suit, and they failed to do so within a reasonable time after the defendants filed their written statements.

6.2. However, after evaluating the legal precedents, the nature of the amendment, and the arguments of both sides, the court finds that the amendment sought by the petitioner is not a change to the original cause of action. The proposed amendment is

an attempt to clarify the boundaries of the property in question and does not fundamentally alter the suit. Although the proposed amendment may impact the proceedings of the suit, it is considered a pre-trial amendment. The objections raised by the respondents regarding the amendment are to be decided and adjudicated during the trial. In the interest of justice and based on the principle of allowing liberal amendments to pleadings, the petition for amendment is allowed. Furthermore, the proposed amendment would facilitate the proper and effective adjudication of the petition. In the above circumstances, and in the interest of justice, this Court is inclined to allow this petition.

7. Result :

In the result, this petition is allowed. No costs.

Dictated by me to the stenographer, transcribed by her, corrected and pronounced by me in the open court, on this the 13th day of August 2025.

**District Munsif,
Ponneri**

Both sides documents and witnesses: Nil

**District Munsif,
Ponneri.**

Fair/ Draft Order
I.A.No.4/2022
O.S.No.74/2013
Date:13.08.2025
DMC,PNI.