

**IN THE COURT OF DISTRICT MUNSIF, GUDIYATTAM,
VELLORE DISTRICT.**

Present: **Tr.K.Karthick Asath, B.A.,B.L.,(Hons).,LLM.,**
District Munsif,
Gudiyattam.

Friday, this the 28th day of November 2025

IA.05/2025
in
OS.No.82/2012

Bhavani

.... Petitioner / Plaintiff

// Versus //

1. Mohan
2. Santhosh
3. Ezhilarasi

.... Respondents/ Defendants

This petition came up on 18.11..2025 before me for final hearing in the presence of Mr.K.M.Boopathi, Advocate for the Petitioner and Mr.M.V.Jagadeesan, Advocate for the respondents and having stood over for consideration, this court delivered the following.

ORDER

The IA.No.05/2025 has been filed Under Order 6, Rule 17 of Code of Civil Procedure to permit the plaintiff to amend the plaint and thus render justice.

1. Brief Averments of the Petitioner :-

The petitioner submit that originally he have filed the above said suit for permanent injunction and declaration against the respondents. The petitioner asking declaration relief regarding the suit 'B' schedule

District Munsif, Gudiyatham

mentioned property only and the same was not mentioned in prayer of the plaint filed in the above said suit by mistake and oversight. The above said mistake is neither willful nor wonton. Since the said mistake is only a clerical error in nature, the same is liable to be amended. The delay in filing the present application may kindly be condone and it is occurred beyond his control. Hence the petitioner filing this application to permit him to amend the plaint. Otherwise the petitioner would put to great hardship and loss. If the petition is allowed there is no prejudice will be caused to other side.

2. Brief Averments in the Counter :-

The respondent submits that it is utter false to allege that all the averments made in the above petition and same is created one for the purpose of filing the petitioner. It is submitted that in the earlier petition IA.521/2018 and IA.No.1/2022 in IA.521/2018 there is no prayer for declaration and there is no inclusion of relief of declaration in the plaint content. Actually, this respondent vehemently opposed for non-maintainability of the amendment petition without the prayer of declaration. As per the petitioner case, there are tow schedule properties in the above suit while so, the prayer of declaration cannot be sought for entire suit property. The valuation of the property is not at all mentioned without basis on valuation and the correct court fee, the earlier amendment itself is not maintainable. It is false to alleged that the said mistake is clerical in nature and justice cannot be denied on clerical errors. When a specific plea has been mentioned in the earlier counter itself the petitioner wantonly failed to incorporate the same in the earlier petition and now it

District Munsif, Gudiyatham

cannot be fulfilled by filing a new application. It is purely negligent and wanton on the part of the petitioner and there is no point of clerical error. Hence all the averments are created one with intention to drag on the proceedings and harassing this respondents. Hence prayed to dismiss the petition with cost.

3. Both side enquiry heard.

4. Point for consideration:-

Whether this application is liable to be allowed ?

5. Evidence:-

Neither of the parties to this application have adduced any oral or documentary evidence.

6. Discussion:-

On considering the submissions made by the both counsels and perusing the available records this court delineate and proceeds its findings based on the following discussion.

6.1. The petitioner is the plaintiff in the suit. Originally the petitioner filed suit against the respondents for seeking permanent injunction restraining them from interfering with the peaceful possession of the suit property. Subsequently the petitioner found that the respondents encroached portion of the A schedule mentioned property. On that the petitioner filed IA.521/2018 for amend the plaint in respect of the prayer

alone and subsequently filed IA.01/2022 in IA.521/2018 to amend the pleadings in the suit. The said IA.01/2022 is allowed on 29.11.2022 and the said IA.521/2018 is allowed on 07.09.2023. Against the I.A orders no appeal is filed by the respondents.

6.2. It is further submit that the petitioner prayed recovery of possession in respect of B schedule suit property without seeking declaration of title over the B schedule property. On that the petitioner filed IA.04/2024 for amend the prayer and the same was allowed by this court on 02.01.2025. Based on the I.A the petitioner amended the prayer to declare the plaintiff title to the suit schedule mentioned property instead of stating suit B schedule mentioned property. At present while the suit posted for evidence in respect of preliminary issues the petitioner filed this amendment petition to amend the prayer by adding B in the declaration prayer. The reasons stated by the petitioner is that the petitioner seeking declaration relief in respect of B schedule mentioned suit property alone but by mistake and over sight it was not specifically mentioned in the prayer of the plaint. Per contra the respondents objected to allow the amendment by stating that it is not maintainable and barred by limitation.

6.3. It is further submit that on perusing the available records the petitioner amended the plaint on 02.01.2025 by adding the words ***“declare the plaintiff title to the suit schedule mentioned property”*** alone based on the amended pleadings in para 2b of the plaint. On perusing the pleadings in para 2b the petitioner specifically mentioned that “ The defendants are

liable to surrender the vacant possession of the suit 'B' schedule property after removing the illegal construction put up by them. The defendants have no right or title over the suit 'B' schedule mentioned property. Hence the plaintiff is filing the present suit for declaration and recovery of possession over the suit 'B' schedule mentioned property along with mandatory injunction". On perusal of the amended pleadings and cause of action the petitioner already averred necessary pleadings and cause of action in respect of claiming declaration of title over the B schedule suit mentioned property. But the petitioner failed to specifically claim declarative prayer in respect of B schedule suit property. Till today the respondents failed to challenge the amendment allowed by this court in IA.4/2024. On that the respondents had no locusstandi to question about the amendment. The petitioner now seeks to add word B in the prayer. On perusal it is a clerical error to be rectified. If the petition is not permitted to be allowed this court loss pecuniary jurisdiction.

6.4. It is further submit that the petitioner failed to amend the plaint with correct details and subsequently filed number of amendments. Due to the amendment petitions the present case was not proceeded from the year 2018 hence the petitioner prolonged the suit. On considering the nature of the suit which is pending from the year 2012 this court thinks the amendment seeks by the petitioner is necessary to decide the issues and for avoid multiplicity of proceedings this court inclined to allow this petition on cost.

7. Result:-

As a result this petition is allowed on condition to pay cost Rs.1000/- to the respondents within 1 week from today.

Dictated to Steno typist directly, typed by him corrected and pronounced by me in the open Court on this the 28th day of November 2025.

**District Munsif,
Gudiyattam.**

Petitioner side Witnesses and Exhibits :- Nil

Respondent side Witnesses and Exhibits :- Nil

**District Munsif,
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District Munsif, Gudiyatham