



**IN THE COURT OF XV ADDITIONAL CITY CIVIL &
SESSIONS: JUDGE AT BENGALURU (CCH.NO.3)**

Dated this 15th day of November 2023

O.S. No. 7446/2022

**Present :- Sri. Laxman Ramu Kurane, B.Com., L.L.M
XV Additional City Civil & Sessions
Judge, Bengaluru.**

Plaintiff :- Sri. B.S. Lokesh

V/s

Defendant :- Sri. B.S. Jagadeesh

**ORDER ON I.A. No.3 FILED BY DEFENDANT UNDER
ORDER VI RULE 17 READ WITH SECTION 151 OF CPC**

Heard both the counsels on the above application. The following points that arise for my consideration are as follows:-

1. Whether IA No.3 filed by defendant under Order VI Rule 17 r/w section 151 of CPC is deserves to be allowed ?

2. What order ?

2. My findings on the above point is Affirmative for the following reasons :-

Point No.1 :- In the Affirmative

Point No.2 :- See for the following :

REASONS

3. **Point No.1** :- This suit is filed by the plaintiff against defendant for relief of Partition and Separate possession of the suit schedule property. The defendant has filed this application to insert Para No.13(a), 13(b), 13(c) and 13(d) in his Written Statement. The defendant in the affidavit filed along with IA No.3 stated that the amendment sought by him is necessary, due to mistake he could not plead the same in the previous Written Statement, as he was not having Bank Statement and he recently secured the same. On securing the Bank Statement details he showed it to the his advocate and on the advise of his advocate he seek for amendment of Written Statement. The defendant submitted that the proposed amendment does not alter the nature of the defence already taken. The defendant submitted that if the application is allowed no hardship will be caused to the plaintiff

4. On the other hand, the plaintiff filed objections stating that the application filed by defendant at the stage of Issues that too after this Hon'ble Court passed an order on the IA filed by the plaintiff seeking the relief of injunction. The defendant has filed this application just to over take those wrong doings. He has come with the present application on imaginary stories and the Written Statement was filed long back. The defendant has already furnished the statement of accounts which contains details of all the alleged transactions and there is no way that the same was not seen by the defendant and his counsel. He said that they could not see the Statement of Accounts and just dumped them in the court without even examining the documents is an insult to the Court as the Court cannot be considered a dumping yard and only the relevant documents can be furnished before the Court and hence, the averments made in this regard in the application is liable to be rejected. I have perused the previous Written

Statement filed by the defendant and the proposed amendment sought by defendant is not mentioned in the previous Written Statement. The amendment sought by the defendant reveals that the defendant intends to submit further facts which he left to his defence in this case. The proposed amendment does not change the nature of the suit and does not take away the rights of plaintiff. Mere assertion in the Written Statement does not prove his contention. The plaintiff has every right to cross examine the defendant and right to file rejoinder. If this application is allowed no hardship will be caused to the plaintiff. In the interest of justice and to know the real controversy between the parties it is necessary to allow this application. Hence, I hold point No.1 in the Affirmative.

5. Point No.2 :- In view of the above discussion on point No.1, I proceed to pass the following :-

ORDER

I.A No.3 filed by the defendant under
Order VI Rule 17 r/w Section 151 of CPC is
allowed.

The defendant is permitted to carry out
the amendment in the Written Statement.

(Dictated to the Stenographer, transcribed and typed by her, corrected and then pronounced by me in the open court on this the 15th day of November 2023.)

(Laxman Ramu Kurane)
XV Addl.City Civil & Sessions
Judge, Bengaluru.