

## **ORDERS ON MEMOS**

While returning the plaint in O.S.No.1799/2021 both parties were directed to appear before this Court on 25.03.2025 without seeking further notice accordingly the plaintiff appeared on 25.03.2025. The defendant No.2 appeared on 28.03.2025 and defendant No.1 appeared on 25.04.2025. On 11.06.2025 defendant No.2 filed memo to consider the written statement already filed before the City Civil Court in O.S.No.1799/2021. Likewise a similar memo to that effect came to be filed by defendant No.1 on 20.06.2025. Further on 26.06.2025 the defendant No.2 files another memo adopting the written statement filed in O.S.No.1799/2021. Though these memos have been taken on record yet it is not accepted and there is no order taking on record the written statement filed by defendant Nos.1 and 2 in O.S.No.1799/2021 in this suit.

The plaint in O.S.No.1799/2021 has been returned for presentation before this Court. Consequently the plaintiff has represented the plaint. Once a plaint has been returned and thereafter it is represented before the proper forum it assumes the character of the fresh suit altogether. Therefore prima-facie the pleadings filed in the earlier suit cannot be taken on record in the subsequent suit. All required pleadings have to be once again filed before the subsequent Court has upon representation the suit has to proceed denovo before the competent forum. In this regard the learned counsel for the plaintiff has placed reliance upon the judgment of the Apex Court reported in ***(2020) 12 Supreme Court Cases 667***

**Com.O.S.449/2025**

***EXL Careers and another vs. Frankfinn Aviation Services Private Limited*** wherein it is observed as under:

*If the court where the suit is instituted, is of the view that it has no jurisdiction, the plaint is to be returned in view of the provisions of Order 7 Rule 10 CPC and after presentation before the court of competent jurisdiction, the plaint is to be considered as a fresh plaint and the trial is to be conducted de novo even if it stood concluded before the court having no competence to try the same."*

Above said observations apply in full force to the prevailing facts and circumstances and therefore the memos filed by the defendant Nos.1 and 2 for adopting the written statement filed by them in previous suit O.S.No.1799/2021 cannot be sustained accordingly ***both memos are rejected.***

**LXXXV A.C.C.& S.J.,  
Bengaluru.**