

KABC170026532023



**IN THE COURT OF LXXXIII ADDL. CITY CIVIL & SESSIONS JUDGE,
COMMERCIAL COURT, BENGALURU (CCH-84)**

**Present: Sri S. Sudindranath, LL.M., M.B.L.,
LXXXIII ADDL. CITY CIVIL & SESSIONS JUDGE
BENGALURU.**

COM.OS.No.1243/2023

Dated on this 19th day of November 2024

Plaintiff

Goodrich Properties

(By Sri.MGR, Advocate)

// versus //

Defendants

Nanasu Mahila Pattina Sahakara
Sangha Niyamita and others

**(D1 & D2 By Sri.TMV, Advocate
D3 - Exparte)**

I.A.No.2

**Applicant/
Plaintiff**

Goodrich Properties,

Office at No.41, 42,

Madanayakanahalli,

Madavara Post,

Dasanapura hobli,

Bangalore north taluk,

Tumkur road,

Near Nice Road Junction,

Bangalore – 562 162

Represented by its partner

Sri.Kemparaj.B.H.

(By Sri.MGR, Advocate)

KABC170026532023



// versus //

**Opponent/
Defendant**

- 1. Nanasu Mahila Pattina Sahakara Sangha Niyamita,**
Reg.No.D.R.T.Reg 46718/2016-17
Jain Temple Road,
Chikapete,
Tumkur – 572101
Represented by its President
Smt.Nagamani
And also represented by its
Hon'ble President C.Manjunath

- 2. Smt.Nagamani,**
W/o Venkatachalaiah,
President
Nanasu Mahila Pattina Sahakara
Sangha Niyamita
Reg.No.D.R.T.Reg 46718/2016-17
Jain Temple Road,
Chikapete,
Tumkur – 572101

Also Residing at
Smt.Nagamani
W/o Venkatachalaiah
President
Nanasu Mahila Pattina Sahakara
Sangha Niyamita
R/at Gowdry Beedi
Chikkapete, Tumkur.

- 3. Sri.Manjunath**
Honorary President
Nanasu Mahila Pattina Sahakara
Sangha Niyamita
Reg.No.D.R.T.Reg 46718/2016-17
Jain Temple Road,
Chikapete,

KABC170026532023



Tumkur – 572101

Also Residing at

Sri.Manjunath

No.1030,

5th Main Road,3rd Cross, 3rd Block, S.G.Halli,

Basaveshwara Nagara,

Bangalore – 560 079.

(By Sri.Anish Acharya, Advocate)

(i)	Provision under which the application is filed and relief sought	Order VI Rule 17 of CPC
(ii)		Amendment of Plaint
(iii)	The date on which the application is filed	15-10-2024
(iv)	Number of the application	IA No. 2
(v)	The date on which the objections are filed by different opponents	Objections filed by Defendant No. 1 and 2 on 08-11-2024
(vi)	The date on which the orders were passed on the said application	19-11-2024

ORDERS ON IA NO. 2.

This is an application filed by the plaintiff under Order 6, Rule 17 CPC for amendment of the plaint.

KABC170026532023



2. The defendant No. 1 and 2 have filed detailed objections to the present application. The defendant No. 3 is ex parte.

3. The stage of the main suit is for further chief examination of PW1.

4. I have heard both sides and perused the records of the case.

5. The only point that arises from my consideration is :-

Whether I.A. No. 2 deserves to be allowed and the plaintiff should be permitted to amend the plaint as sought for in I.A. No. 2?

6. My answer to the above point is in the **affirmative** for the following :-

REASONS.

7. The facts in brief are that, this is a suit filed by the plaintiff, which is a partnership firm against defendant No. 1 to 3. The defendant No. 1 is a cooperative society

KABC170026532023



and defendant No. 2 and 3 are stated to be the president and honorary president of defendant No. 1 society. It is the case of the plaintiff that on the inducement of defendant No. 2 and 3, the plaintiff has invested Rs. 90 lakhs into defendant No. 1 cooperative society on assurance that the said deposited amount would be returned along with interest. Contending that, thereafter the defendants have defaulted in repayment of the deposited amount with interest, the present suit is filed for recovery of principal sum of Rs. 90 lakhs, together with interest thereon of Rs. 60,57,000, and hence for recovery of total sum of Rs. 1,50,57,000/= along with interest from the date of suit till date of realization, the present suit is filed.

8. The defendant No. 1 and 2 have entered appearance and filed detailed written statement denying the plaint averments. Issues are framed and in plaintiff's evidence, the authorized representative of plaintiff is

KABC170026532023



examined as PW1 and the matter is posted for further chief examination of PW1.

9. At this stage, the plaintiff has come up with the present application seeking to amend the plaint. The amendment sought for in the present application is only to amend the cause title of the plaint to replace the words “represented by its partner” with the words “represented by authorized representative.” In the affidavit in support of present application, it is stated that the authorized representative who has signed the Plaint on behalf of the Plaintiff Partnership Firm, namely, B. H. Kemparaj, was earlier the partner of Plaintiff Firm, but he retired as partner on 28-07-2022. But notwithstanding his retirement, he has been authorized by the Partnership Firm to represent the Plaintiff in the present suit. Therefore, his designation is that of authorized representative and not as partner, but by inadvertence in the plaint cause title, it is stated that plaintiff is represented by its partner, whereas in fact it should have

KABC170026532023



been stated as represented by its authorized representative. Hence, to correct the said inadvertent error, the present application for amendment is filed.

10. In the objections filed by defendant No. 1 and 2 to the present application, contentions are raised on the merits of the case by contending that suit is not maintainable and is filed to make unjust enrichment and is liable to be dismissed. It is contended that the amendment sought for is uncalled for. With these contentions, the defendant No. 1 and 2 have prayed for dismissal of the present application.

11. At the outset, it is to be noted that, not only in the plaint cause title, but even in the affidavit evidence of PW1 which was filed as late as on 17-08-2024, the signatory of the plaint, namely PW1, B.H. Kemparaj, has described himself as partner of the plaintiff partnership firm. Now, the present application is filed stating that said B. H. Kemparaj is not the partner since he retired as early as on 28-07-2022 and in fact he is authorized

KABC170026532023



representative of Plaintiff having been authorized by the authorization letter which is marked as Ex. P2. On this premise, the amendment of the Plaintiff cause title is sought.

12. One of the contentions taken in the objection statement at paragraph 12 is that, the present application is filed after PW1 has given evidence on 17-08-2024 claiming to be the partner of the firm. However this is a matter to be put to PW1 in cross examination as to how even in his affidavit evidence he has described himself as a partner if he has retired from the firm in 2022 itself. Be that as it may, at this stage, when the plaintiff is before the court stating that by inadvertence there is a mistake in the Plaintiff cause title in describing the signatory of the Plaintiff as Plaintiff's partner and he should be described as an authorized representative, interest of justice requires the amendment to be allowed since such an amendment is necessary to decide the real matter in controversy between the parties. All other

KABC170026532023



contentions taken in the objection statement of Defendant No. 1 and 2 are contentions on merits of the suit and will have to be considered in the trial. However, while allowing the amendment, the court should be conscious that, as noted supra, not only in the plaint but in affidavit evidence of PW1 also, the mistake is repeated by describing PW1 as partner. Therefore, while allowing the amendment application, it should be subject to imposition of heavy cost, which is quantified at Rs. 2000. Accordingly, answering the point for consideration in the **affirmative**, I proceed to pass the following :-

ORDER

IA No. 2 filed by the plaintiff under order VI rule 17 of cpc is allowed and plaintiff is permitted to amend the Plaint as sought for in IA No. 2 subject to payment of cost of Rs. 2,000/=.

Hence for the plaintiff to carry out amendment of the Plaint and to file amended Plaint and to pay cost of Rs. 2000/= to defendant No. 1 and 2 and thereafter for fixing

KABC170026532023



date for additional written statement if any of the
defendant No. 1 and 2, Call on 02-12-2024.

[Dictated using Dragon Professional Speech Recognition
Software Version 15.3, transcript revised, corrected,
signed and then pronounced by me in open court on this
the **19th day of November, 2024**]

(Sri. S. Sudindranath)
LXXXIII ADDL.CITY CIVIL AND SESSIONS JUDGE,
COMMERCIAL COURT; BANGALORE.