

**IN THE COURT OF THE LXXXIII ADDITIONAL CITY CIVIL
AND SESSIONS JUDGE AT BENGALURU CITY [CCH-84]**

:Present:

Ravindra Hegde,
M.A., LL.M.,
LXXXIII Addl. City Civil & Sessions Judge,
Bengaluru

Dated on this 18th day of January 2023

COM.OS.No.1432/2022

- PLAINTIFFS:**
- 1.** Mrs. Sreelakshmi Kottu
W/o Mr.jagadeesh Sreenivas Kottu,
aged about 37 years,
R/at No.K-1902,
Rainbow Vistas at Rock Garden,
Opp IDL, Moosapet,
Hyderabad-500018.
 - 2.** Mr.Jagadeesh Sreenivas Kottu,
S/o Venkatarama Rao,
aged about 44 years,
R/at No.K-1902,
Rainbow Vistas at Rock Garden,
Opp IDL, Moosapet,
Hyderabad-500018.
 - 3.** Ms. Jai Vaishanavi Kottu,
represented by Legal Guardian
Mr. Jagadeesh Sreenivas Kottu,
aged about 9 years,
R/at No.K-1902,
Rainbow Vistas at Rock Garden,
Opp IDL, Moosapet,
Hyderabad-500018.

[By Sri. L.M, Advocate]

/v e r s u s/

- DEFENDANTS:**
- 1.** M/s.Elena Geo Systems Private Ltd
A company incorporated under the
Companies Act, 1956/2013
CIN U72200KA2012PTC139939
having its Registered office at
62/1, 1st Cross, 2nd Main,
Ganganagar,
Bengaluru-560032.
 - 2.** Shanmugavelan Venkatachalam,
Director
M/s. Elena Geo Systems Pvt. Ltd.,
62/1, 1st Cross, 2nd Main,
Ganganagar,
Bengaluru-560032.
 - 3.** Ms. Rajendran Naveena @
Ms.Naveena R Velan @
Ms.Naveen R,
Director
M/s. Elena Geo Systems Pvt. Ltd.,
62/1, 1st Cross, 2nd Main,
Ganganagar,
Bengaluru-560032.
 - 4.** Mr. Pradeep Kumar Juneja,
Major,
Father's name unknown,
Shareholder of
M/s. Elena Geo Systems Pvt. Ltd.,
62/1, 1st Cross, 2nd Main,
Ganganagar,
Bengaluru-560032.
 - 5.** Mr.Jayawant Shivaji Patil,
Major,
father's name unknown,

shareholder of
M/s. Elena Geo Systems Pvt. Ltd.,
62/1, 1st Cross, 2nd Main,
Ganganagar,
Bengaluru-560032.

[By Sri.G.V, Advocate]

ORDER ON I.A.No.VI

This application under Order VI Rule 17 read with Section 151 of CPC is filed by the plaintiff seeking permission to amend the plaint and to insert para 55.A to 55.K and to replace prayer (c) to declare that removal of plaintiff No.2 from the directorship of defendant No.1 is illegal and in breach of the agreement for Shares Acquisition dated 1/6/2019 and is null and void.

2. In the affidavit in support of the application, plaintiff has stated that the plaintiffs have filed this suit for several reliefs including the prayer to restrain the defendants and its directors and shareholders from removing plaintiff No.2 as director of defendant No.1 company, as long as plaintiff No.2 remains a shareholder of the defendant No.1 company. It is stated that subsequent to filing of the suit the defendant No.1 in its EGM has removed the plaintiff No.2 from the directorship of defendant No.1 company and therefore the amendment sought is very necessary and the prayer (c) is to be replaced with declaration that the removal of the plaintiff No.2 is illegal, null and void. It is stated that the earlier prayer of the injunction has become infructuous. It

is stated that if the amendment is not allowed, the plaintiff No.2 will be deprived of enforcing its contractual rights and would suffer irreparable loss.

3. Objection has been filed stating that the contention taken in the statement of truth is contrary to facts and law. It is stated that the amendment sought to be made is completely irrelevant to the dispute. It is also stated that the manner of removal of plaintiff No.2 cannot be subject matter of litigation before this court and plaintiff intends to challenge the removal as in violation of Section 169 of the Companies Act and if that is so, this court would not have jurisdiction to try the dispute as per Section 430 of the Companies Act. On these grounds application is prayed to be dismissed.

4. Now the points that arise for my consideration are:

1. Whether the amendment as prayed is to be permitted?

2. What order?

5. Heard both counsels. Perused records.

6. My answer to the above points are :

Point No.1 : In the affirmative.

Point No.2 : As per final order for the following:

REASONS

7. Point No.1: The plaintiffs have filed this suit stating that the plaintiff No.2 has become director of the 1st defendant company on the basis of his investment and also as per the agreement entered with the defendant No.1. According to the

plaintiff when the defendant No.1 through defendants No.2 and 3 tried to remove the plaintiff No.2 from the directorship of the 1st defendant company, plaintiff has filed this suit seeking several reliefs. In Prayer (c) plaintiffs had prayed to restrain the defendant No.1 and its directors and shareholders from removing plaintiff No.2 as director of defendant No.1 company, so long as defendant No.1 company to be the shareholder of the 1st defendant company. Subsequent to the filing of the suit on 28/9/2022, AGM of defendant No.1 is said to have been conducted and EGM was also held on 8/10/2022 wherein the plaintiff No.2 was removed as whole time director of the 1st defendant by majority of 14 to 2. Since plaintiff No.2 is already removed from the directorship, prayer (c) of the suit become infructuous. According to the plaintiff, removal of plaintiff No.2 is illegal, null and void and is also against the agreement entered between the parties and the plaintiffs intend to challenge the same. Therefore the plaintiff intends to seek amendment to the plaint and to insert these facts which lead to his removal from the directorship of the 1st defendant company and also intend to replace the prayer (c) by seeking declaration that his removal is illegal. The defendant has objected stating that the relief sought is barred by section 430 of Companies Act and civil court cannot grant such relief and therefore amendment cannot be permitted.

8. On looking to the contentions which are sought to be inserted by amending the plaint and the prayer (c) by

replacing the earlier prayer, at this stage, it cannot be held that the prayer which is intended to be sought cannot be granted by the civil court. Even on the ground that the relief cannot be granted, the amendment cannot be refused. The suit is in the initial stage, wherein the defendants have not even filed written statement and some of the defendants have not even appeared before the court. At this stage, if the amendment is permitted no loss would be caused to the defendants. Moreover, the amendment sought to be made to the plaint is to incorporate the subsequent event and to add prayer on the basis of such subsequent event. Therefore the amendment can be permitted. Accordingly **point No.1 is answered in the affirmative.**

9. POINT No.2 : For the discussion made on above point, following order is passed:

ORDER

**I.A.No.VI filed under Order VI rule 17 of
CPC by the plaintiff is allowed.**

**Plaintiff is permitted to amend the plaint
as prayed in I.A.No.VI.**

*[Dictated to the Judgment Writer; transcript thereof corrected,
signed and then pronounced by me, in the Open Court on this
the 18th day of January 2023]*

**[Ravindra Hegde]
LXXXIII Additional City Civil Judge.
BENGALURU.**
