

KACD420008102024



IN THE COURT OF THE PRL. CIVIL JUDGE
AT HOLALKERE

Present: Sri.UMESHA, M.P., B.A.L., LL.B.
PRL. CIVIL JUDGE & JMFC,
HOLALKERE

DATED: ON THIS THE 20th DAY OF FEBRUARY – 2025

ORIGINAL SUIT No. 159 / 2024

PLAINTIFF : **KARNATAKA GRAMINA BANK,**
by its Head Office at Bellary, and Branch Office at
N.G.Hally Village, Holalkere Taluk,
Represented by its Present Manger & P.A.Holder,
Sri.Arun D S/o Venkateshwarlu D.,
Aged about 37 Years,Occ:Manager of the plaintiff Bank,
R/o N.G.Hally Village, Ramagiri Hoblil, Holalkere Taluk,
Chitradurga District.
(BY PLEADER SRI.GER)

-V/s-

DEFENDANTS : 1. **G. C. MANJUNATHA** S/o G.N.Chikkappa,
Since dead by his LRs:

1(a). **SMT. GOWRAMMA** W/o G.C.Manjunatha,
Aged about 75 years, Occ:Agriculturist,

1(b). **G.M. SHIVAKUMAR** S/o G.C.Manjunatha,
Aged about 51years, Occ:Agriculturist,
D-1(a) &1(b) are R/o Gowdihally Village, Holalkere Taluk.

2. **M. ESHWARAPPA** S/o Mallappa,
Aged about 40years, Occ:Agriculturist,
R/o Gollarahally Village, Holalkere Taluk.
(BY PLEADER SRI.LKS FOR DEFENDANT No.1(a) & 1(b))
(BY PLEADER SRI.NRM FOR DEFENDANT No.2)

PARTIES TO I. A. NO.III

APPLICANTS/DEFENDANTS: 1. **G.C. MANJUNATHA** S/o G.N. Chikkappa,
Since dead by his LRs:



1(a). **SMT. GOWRAMMA** W/o G.C. Manjunatha,
Aged about 75 years, Occ:Agriculturist,

1(b). **G.M. SHIVAKUMAR** S/o G.C. Manjunatha,
Aged about 51years, Occ:Agriculturist,
D-1(a) &1(b) are R/o Gowdihally Village, Holalkere Taluk.
(BY PLEADER SRL.LKS FOR DEFENDANT No.1(a) & 1(b))

-V/s-

OPPONENT/PLAINTIFF :

KARNATAKA GRAMINA BANK,

by its Head Office at Bellary, and Branch Office at
N.G.Hally Village, Holalkere Taluk,
Represented by its Present Manger & P.A.Holder,
Sri.Arun D S/o Venkateshwarlu D.,
Aged about 37 Years,Occ:Manager of the plaintiff Bank,
R/o N.G.Hally Village, Ramagiri Hoblil, Holalkere Taluk,
Chitradurga District.
(BY PLEADER SRI.GER)

ORDERS ON I.A.No.III

This application filed by the defendant No.1(a) & 1(b) U/Order 6 Rule 17
R/w Sec.151 of C.P.C, praying to amend their written statement as per the
proposed amendment, in the interest of justice and equity.

Proposed amendment is as under:

In the written statement after para No.3, insert below facts as para No.3(a). The
defendant No.1 G.C.Manjunath has not received any loan from the plaintiff bank. The
defendant No.1 and 1(b) have not executed any promissory note and other documents
with respect to loan amount. The defendant No.2 also surety to the said loan is false. The
defendant No.1 is/ was not the manager/Kartha of the family of the defendant No.1(a) &
(1b).The defendant No.1 and 1(a) had a daughter by name Smt.Geetha. The said Smt.
Geetha was major on 02.11.2006. The defendant No.1(a) and the said Smt.Geetha have
right over the suit properties. The properties has shown in the plaint are the joint family



properties of the defendant No. (1a), 1(b) and the said Smt.Geetha. The said Smt.Geetha has not made as a party in the suit. The said Smt.Geetha is a successor of the said G.C.Manjunath.

The said Smt.Geetha had filed a suit for partition and separate possession against defendant No.1 vide O.S. No.68/2008. The said suit was decreed on 09.06.2009 in favour of the said Smt.Geetha. As per the Decree, the said Smt.Geetha had filed a F.D.P. No. 9/2009 before this Hon'ble Court for her 1/3 share. This Hon'ble Court has drawn final Decree on 09.04.2011 accordingly. The defendant No.1 has not stated in the W/S towards the loan amount.

The defendant No.1(a) & 1(b) and the said Smt.Geetha have not entitle to pay the amount as alleged by the plaintiff. The defendant No.2 also not entitle to pay the amount to the plaintiff. Hence, this Hon'ble Court be pleased to dismiss the case.

2. In support of the application, the defendant No.1(b) has filed sworn an affidavit contending that, the plaintiff bank has filed the above case against the defendants for recovery of money. It is further stated that, today the case is posted for cross examination of PW-1. It is further stated that, during the pendency of this suit, the defendant No.1 was died. It is further stated that, the plaintiff bank has filed an application to bring the LRs of the defendant No.1 ie defendant No.1(a)&1(b) as his LRs to his estate. It is further stated that, one Smt. Geetha is the daughter of the deceased defendant No.1 and she is the necessary party to the suit. It is further stated that, the said Smt.Geetha had filed a suit O.S.No.68/2008



before this court. It is further stated that, the proposed amendment is necessary to prove their case. If this application is allowed no hardship would be caused to other side, otherwise the defendant No.1(a) & 1(b) will be put to great irreparable loss and legal injury to them. Hence, it is necessary for them to amend their written statement as mentioned in the application in the interest of justice.

3. Per contra, the learned counsel for the plaintiff bank has opposed the said IA No.3 by filing objections to the said IA No.3 contending that, the present application filed by the defendant No.1(a) is not maintainable either in law or on facts and circumstances of the case. It is further contended that, the manager of the plaintiff bank has examined as PW-1 on 06.11.2024. It is further contended that, this Hon'ble court has given sufficient opportunity to the defendant No.1(a) & 1(b) for cross examination of the PW-1. It is further contended that, this application is only to drag the proceeding of the case. It is further contended that, the proposed amendment facts are not useful to either the plaintiffs nor the defendants and even adjudicate the suit matter. It is further contended that, the defendant No.1 (b) has stated the false facts in the application enclosed affidavit and all the contents of the said affidavit are hereby denied as false and baseless. It is further contended that, the contents stated in the application and its enclosed affidavit are all after thought one with the sole intention to gain wrongfully and illegally. It is further contended that, the plaintiff bank has filed this case for recovery money. It is further contended that, the defendant No.1(b) has stated the false facts in the application enclosed



affidavit and he has not whispered the true facts and correct address of the his mother and his sister. It is further contended that, the said facts are not knowing the PW1. It is further contended that, the defendant No.1(a) & (b) are already created some document with an intention to deprive the rights of the plaintiff bank in the suit schedule properties. It is further contended that, they are try to create the third party interest in the suit schedule properties. It is further contended that, if the application is allowed then the plaintiff bank will be put great hardship, inconvenience. Hence, he prayed to order to reject the application filed by the defendant No.1(a) & (b) with the exemplary cost in the interest of justice.

4. I have heard the arguments from the learned counsels for the plaintiff bank and the learned counsel for the defendants on IA No.3 at length.

5. The following points arise for my consideration:

1. Whether the applicants / defendant No.1(a) &(b) have made out the ground to allow the I.A.No.3?

2. What order?

6. My answers to the above point are as follows:

Point No.1 : In the affirmative.

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

REASONS

POINT NO.1 :-

7. The plaintiff bank has filed this suit against the defendants for the recovery of money.



8. The Applicants / defendant No.1 (a) & 1(b) have filed IA No.3 under order 6 Rule 17 R/w Sec.151 of Civil Procedure Code praying to add the proposed amendment to their written statement.

9. According to defendant No.1(b), in the accompanying affidavit it is stated that, the plaintiff bank has filed the above case against the defendants for the relief of recovery of money. It is further stated that, today the case is posted for cross examination of PW-1. It is further stated that, during the pendency of this suit, the defendant No.1 was died. It is further stated that, the plaintiff bank has filed an application to bring the LRs of the defendant No.1 ie defendant No.1(a)&1(b) as his LRs to his estate. It is further stated that, one Smt. Geetha is the daughter of the deceased defendant No.1 and she is the necessary party to the suit. It is further stated that, the said Smt.Geetha had filed a suit O.S.No.68/2008 before this court. It is further stated that, the proposed amendment is necessary to prove their case. If this application is allowed no hardship would be caused to other side, otherwise the defendant No.1(a) & 1(b) will be put to great irreparable loss and legal injury to them. Hence, it is necessary for them to amend their written statement as mentioned in the application in the interest of justice.



10. Per Contra, the learned counsel for the plaintiff bank has opposed the same by filing objections to IA No.3 contending that, the present application filed by the defendants No.1(a) & 1(b) is not maintainable in law or on facts and circumstances of the case. It is further contended that, the manager of the plaintiff bank has examined as PW-1 on 06.11.2024. It is further contended that, this Hon'ble court has given sufficient opportunity to the defendant No.1(a) & 1(b) for cross examination of the PW-1. It is further contended that, this application is only to drag the proceeding of the case. It is further contended that, the proposed amendment facts are not useful to either the plaintiffs nor the defendants and even adjudicate the suit matter. It is further contended that, the defendant No.1 (b) has stated the false facts in the application enclosed affidavit and all the contents of the said affidavit are hereby denied as false and baseless. It is further contended that, the contents stated in the application and its enclosed affidavit are all after thought one with the sole intention to gain wrongfully and illegally. It is further contended that, the plaintiff bank has filed this case for recovery money. It is further contended that, the defendant No.1(b) has stated the false facts in the application enclosed affidavit and he has not whispered the true facts and correct address of the his mother and his sister. It is further contended that, the said facts are not knowing the PW1. It is further contended that, the defendant No.1(a) & (b) are already created some document with an intention to deprive the rights of the plaintiff bank in the suit schedule properties. It is further contended that, they are try to create the third party



interest in the suit schedule properties. It is further contended that, if the application is allowed then the plaintiff bank will be put great hardship, inconvenience. Hence, he prayed to order to reject the application filed by the defendant No.1(a) & (b) with the exemplary cost in the interest of justice.

11. In this regard Order 6 rule 17 of CPC must be looked in to ...

Order 6 rule 17 of CPC... Amendments of pleadings:-

The court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties.”

“Provided that no application for amendment shall be allowed after the trial has commenced, unless the court comes to the the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.”

12. After reading the above procedural aspect now it is very clear that, the court shall not allow the amendment of pleadings after the commencement of trial but party could not raised the same in spite of due diligence before commencement of trial if party satisfied the due diligence to the court then court can allow the application even after commencement of trial.



13. The Applicants / defendant No.1(a) & 1(b) have filed IA No.III under order 6 Rule 17 of Civil Procedure Code praying to amend their written statement as per proposed amendment.

14. The plaintiff bank has filed this suit against the defendants seeking for the relief of recovery of money. The defendants have contested the suit by filing their written statement on 09.09.2024. This court has framed the issues on 10.09.2024. When the case is set down for cross of PW-1, this present application being filed seeking amendment of plaint. No doubt it is true that, the evidence of the plaintiff is not yet completed. But on perusal of proposed amendment it is clear that, the defendant No.1(a) & 1(b) want to correct their pleadings and in order to prove their case. Under these circumstances, the proposed amendments are just and necessary to adjudicate the real controversy between the parties finally and effectively. If the application is allowed it would meet the ends of justice. Other wise chances of multiplicity of proceeding including wastage of cost and time of both the litigants cannot be ruled out. Therefore, to advance the cause of justice, I proceed to following:

Point No.2 :

15. For the aforesaid reasons, discussions made above, I proceed to pass the following:



ORDER

IA.No.3 filed by the defendant No.1(a) & 1(b) under the provisions of Order 6 Rule 17 of CPC is hereby allowed.

No cost.

Learned counsel for the defendant No.1(a) & 1(b) is permitted to carry out necessary amendments and furnish the amended written statement.

(Dictated to the Stenographer directly on computer, typed by her, the same is corrected and then pronounced by me in the open court on this the 20th day of FEBRUARY – 2025)

(UMESHA M.P)
Prl.Civil Judge,
Holalkere