



**IN THE COURT OF THE SENIOR CIVIL JUDGE AND JMFC
AT N.R.PURA, ITINERATE AT KOPPA**

Present: Sri Raghunatha Gowda K.T., B.Com.,L.L.B,
Senior Civil Judge & JMFC., N.R.Pura, Itinerate at Koppa.

Dated this the 16th day of August, 2025

O. S. No.23/2022

Plaintiffs : Mrs. Girija Dhruva,
aged about 80 years,
W/o Late Dhruva
Narashimha Murthy,
Earlier residing at Hosur Village,
Ayanuru Post,
Shimoga Taluk and District.

Also at

No.202, "Venkatagiri",
Kumbar Street, K.R.Puram,
Bangalore-560 036.

represented by her power of
attorney holder

Sri K.S. Rajagopala,
aged about 54 years,
S/o K.V. Seshagiri,
No.202, Kumbar Street,
K.R.Puram,
Bangalore-560 036.

(By Sri B.C.V.S., Advocate)

Vs/-



- Defendants** :
1. Mr. H.M. Ramachandra,
Aged about 65 years,
S/o Late H.Manjappaiah,
 2. Mrs. Janaki,
aged about 57 years,
S/o Mr. H.M. Ramachandra.
 3. Mr. Abhinava Chandra,
aged about 57 years,
S/o Mr. H.M. Ramachandra.
 4. Kumari Prathyaksha,
aged about 20 years,
D/o Mr. H.M. Ramachandra.
 5. Mr. H.M. Shivashankar,
Aged about 68 years,
S/o Late H.Manjappaiah,
 6. Mrs. N.V. Srimathi,
Aged about 56 years,
W/o Mr. H.M. Shivashankar.

All are residents of
Harakodu, Huligardi Village,
Agalagandi Posti,
Megunda Hobli,
Koppa Taluk,
Chickmagaluru District.

(Defendant No.1 to 4 represented by Sri SRS/HSA.,
Advocate, Defendant No.5 and 6 represented by Sri BSN.,
Advocate)



I.A. No.XI

Applicant/ Defendant No.3 : Abhinavachandra

V/s

Opponents/Plaintiff : Mrs. Girija Dhruva
represented by her power of
attorney holder Sri K.S.
Rajagopala

ORDERS ON I.A. No.XI

When the matter posted for further cross of PW1 at this stage the present application is filed by the defendant No.3 under order VI Rule 17 of C.P.C. seeking permission to amend the written statement i.e proposed amendment as under;

“It is to be inserted in proposed para 22 as 'The Defendants have not executed any shara to the plaintiff on 13.02.2019 for the agreement dated 19.07.2018 and further the defendants have not executed any endorsements for plaintiff on 18.03.2019 and 29.06.2019 for the agreement dated : 19.07.2018'.

It is to be inserted in proposed Para 23 as ' The suit is filed by the plaintiff against the Defendants is barred by the limitation. In the alleged agreement the parties have to perform their part of contract by entered into sale deed within 6 months from the date of Agreement,



hence the plaintiff ought to have filed the suit within 3 years, after the expiry of 6 months from the date of alleged agreement. Hence the suit is liable to be dismissed in the limitation point of view itself”.

2. It is stated in the affidavit of the defendant No.3 that at the time of filing the written statement, due to over sight he could not mention the certain defence in the same and the said defence are very important. Further he contended that the defendants have not executed any endorsement to the plaintiff and the suit of the plaintiff is barred by law of limitation. Further he contended that if the proposed amendment is allowed no harm would be caused to the plaintiff and the proposed amendment will not change the nature of the suit. Hence, he prays to allow this application.

3. Per contra, the plaintiff's counsel filed objection to said application contended that the application filed by the defendant No.3 is not maintainable either in law or facts. Further specifically contended that the defendant No.1 received an amount of Rs.20,00,000/- on 19.07.2018 and Rs.10,00,000/- on 18.03.2019 and Rs.8,00,000/- on 29.06.2019 same was clearly discloses at Ex. P35(a), 35(b)



and Ex. P36(a). Further the defendant No.5 received an amount of Rs.10,00,000/- on 10.08.2019 same was clearly discloses at Ex. P35(c). Further he contended that when the matter posted for further cross-examination of PW1 at this stage the present application is filed with an intention to prolong the matter and there is no bonafide reason to allow this application. Hence he prays to reject the application with exemplary costs.

4. Heard learned counsel for plaintiff and defendants. Perused the materials on record.

5. The following point arises for my consideration:

- i) Whether the application filed by the defendant No.3 deserves to be allowed ?
- ii) If so, what order?

6. My answer to the above points are as follows :

Point No. 1 : In the Affirmative

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



REASONS

7. **Point No.1:-** The plaintiff filed this suit against the defendants for relief of specific performance of contract and also seeking alternative relief for refund of earnest amount with interest. Now the matter posted for further corss of PW1, at this stage the defendant No.3 filed this application to seeking to amendment of written statement as stated in the earlier paragraph of this order.

8. I have gone through the entire materials available on record the defendant No.3 seeking amendment of the written statement to take defence that the defendants have not executed any endorsement to the plaintiff on 18.03.2019 and 29.06.2019. Further another defence set up by the defendant No.3 that the suit of the plaintiff is barred by law of limitation. Further the burden lies on the defendant No.3 to prove the such defence. Further, if the amendment application is allowed the nature of the suit and cause of action will not be changed and in order to effective adjudicate of the matter and to resolve the dispute between the parties the proposed amendment is very much necessary.



9. Further i relied on the judgment reported in **2022 (3) KCCR 2078 in between Smt. Sarojamma and another V/s A.Y. Anil kumar**. In the said judgment at para No.5 the Hon'ble High Court held that the amendment given the real nature of controversy, would be necessary for effective and complete adjudication. Under such circumstances the amendment application can be allowed. Further moreover in order to avoid multiplicity of proceeding between the parties and also the court will comes to proper conclusion the amendment is necessary and if the amendment application is allowed no loss or harm caused to the other side and this court is of considered opinion that, the proposed amendment do not in any manner change the nature of the suit and would not cause prejudice to the other side. Thus, in order to effectually adjudicate the controversy involved in the suit, it is just and necessary to amend the written statement and in order to delay of filing this application by the defendant No.3 to impose a suitable costs. Accordingly aforesaid point for consideration is answered in the Affirmative.



10. **Point No.2**:- In view of my findings on Point No.1, I proceed to pass the following :-

ORDER

I.A. No.XI filed by the defendant No.3 under order VI Rule 17 of C.P.C. is hereby allowed with costs of Rs.200/-.

The defendant No.3 is permitted to amend the written statement and also furnish the amended written statement.

(Dictated to the stenographer directly on computer, corrected by me and then pronounced in open court on this **16th day of August, 2025**)

Sd/-

(Raghunatha Gowda K.T.)
Senior Civil Judge & JMFC.,
N.R.Pura, Itinerate at Koppa.