

**IN THE COURT OF THE CIVIL JUDGE AND ADDITIONAL
J.M.F.C., AT TARIKERE**

Present : SMT.PAVITHRA.M.D, B.A., LL.B.,
Civil Judge & Addl. JMFC. Tarikere.

O.S.No.162/2008

Dated this 01st day of December 2018

ORDER ON IA

The plaintiff has filed this application Under Order 6 Rule 17 R/w Sec.151 of CPC to accord permission to insert the proposed amendment.

2. It is averred in the affidavit annexed to the application that, he filed this suit for specific performance of agreement dated 01.10.2008 against the defendants. He further stated that, despite of the suit, defendant No.1 has executed a registered sale deed in favour of defendant No.2. Further, the plaintiff submitted that, he has no sought for refund of earnest money in the present suit. If the application is not allowed, he will be put to injustice. Hence, this application.

3. The defendant submitted that, IA may be allowed on cost.

4. Heard on application.

5. Perused the application in the backdrop of materials available on record. The plaintiff has filed this suit for specific performance of contract dated 01.10.2008. At the

first instance, the plaintiff has sought for the relief of specific performance of the sale agreement dated 01.10.2008. Now, the plaintiff intends to insert an alternative relief of refund of earnest money by way of proposed amendment. Under the proviso to Sec.22(2) of the Specific Relief Act, the Court shall at any stage of the proceeding allowed the plaintiff to amend the plaint on such terms as may be just for including a claim for such relief. In view of the above said provision I find no impediment to permit the plaintiff to insert the proposed relief. However, there is a delay in approaching the Court by the plaintiff. That has to be compensated in terms of cost to the defendant. Accordingly, I proceed to pass the following:

ORDER

The application filed U/Or.6 Rule 17 R/w
Sec.151 is hereby allowed on cost of ₹500/-.

To carryout amendment and amended plaint
by

Sd/-

**(PAVITHRA.M.D)
CIVIL JUDGE AND ADDL.
J.M.F.C., TARIKERE.**