

IN THE COURT OF THE PRINCIPAL DISTRICT & SESSIONS JUDGE,
AT : DAVANAGERE.

DATED THIS THE 16th DAY OF JULY 2024

PRESENT

Smt. RAJESHWARI N. HEGDE, B.Com., LL.M.,
Principal District & Sessions Judge,
Davanagere.

Com.O.S.No. 59/2022

Plaintiff:

Sri Lalith Kumar S/oShankar Lal,
Aged 30 years, Prop.M/s.Shivashakti
Swadeshi Bazaar, No.464/34,
M.G.Road, Davanagere.

VERSUS

DEFENDANTS:

1. Pacific Foods,
A Company incorporated under the
provisions of the Indian Companies
Act, Represented by its Chairman &
Managing Director, Regd.Office
Satara Road, Near Medonalds Varne Kh,
Pune 412 205.
2. The Authorised Signatory,
Pacific Foods,
A Company incorporated under the
provisions of the Indian Companies
Act, Regd.Office GAT No.225,
Pune - Satara Road,
Near Medonalds Varne Kh,
Pune 412 205.

Advocate for Plaintiff: Sri J.N.Vasanth Kumar, Advocate.
Advocate for Defendants: By Sri Siddeshi.N, Advocate.

ORDER ON I.A.NO.IV

1. Plaintiff has filed an application U/O.I Rule 10(2) r/w Sec.151 of CPC seeking an order to implead the persons mentioned in the schedule of the application as defendants No.3 & 4 in the interest of justice.
2. In spite of the sufficient opportunity, the learned counsel for the defendants has not filed objection to I.A.No.IV. Hence, it is taken as objection not filed.
3. Heard arguments on both sides.
4. Perused the records.
5. It is stated in the affidavit enclosed to the present application that the plaintiff has filed the suit against the defendants for recovery of ₹5,61,188.38 together with current and future interest at the rate of 18% per annum on ₹5,02,063.38 from the date of suit till its realization.
6. After service of summons, the defendants appeared through their counsel and filed written statement, in addition to the written statement, he has also filed an application U/O.VII Rule 11 CPC seeking rejection of the plaint, plaintiff is a Company registered under the Indian Companies Act, but it is not the proprietary concern. In the written statement the defendants have raised the contention that Anirudh Banerjee is an employee and Smt.Priya Vaman Samanth is the proprietor of Pacific Foods. Thus, the agreement signed by Anirudh Banerjee as authorised signatory of the Pacific Foods is misleading one, even the amount is credited to the account of pacific foods and the amount is drawn by pacific foods. In view of the contention raised by the defendants in the written statement it is absolutely essential and

necessary to implead the persons mentioned in the written statement filed by the defendants as defendants No.3 & 4, if the application is allowed no prejudice would be caused to other side, on the other hand if the application is not allowed, the plaintiff will be put to much more hardship or legal injury. Hence, it is prayed to allow the application.

7. On perusal of the contents of the affidavit to the present application and the available materials placed on record, it reveals that the suit is filed for recovery of money from the defendants, the money transaction and nature of the suit is the commercial transaction, in this case the defendants No.1 & 2 are filed their written statement to contest the claim of the plaintiff. The learned counsel for the plaintiff submitted that he has filed the present application to implead the proposed defendants as defendants No.3 & 4 who are the authorised signatory to the agreement of the company and they are the necessary parties to the suit for adjudication of the matter. In spite of sufficient opportunity given to the defendants, they did not choose to file objection to the present application and hence, it is taken as objection not filed to the present application.

8. On perusal of the records, facts and circumstances of the suit, the nature of the transaction between the parties, and considering the non-filing of objection to the present application by the defendants, this court is of the opinion that there is no impediment to allow the application filed by the plaintiff and hence, the application filed by the plaintiff is deserves to be allowed. Accordingly, I proceed to pass the following;

O R D E R

I.A.No.IV filed by the plaintiff U/O.I Rule 10(2) r/w Sec.151 CPC is allowed.

The plaintiff is hereby permitted to bring the proposed defendants as defendants No.3 & 4.

To carry out amendment and to file the amended plaint.

(Typed to my dictation by the Senior Sheristedar, after his typing, corrected, signed and then pronounced by me in the Open Court dated this the 16th day of July, 2024).

Prl.District & Sessions Judge,
Davanagere.