

Case called out.
Both parties absent.
No representation from either side.

ORDERS ON IA NO. IV

This IA is filed by the plaintiff and prays to permit the plaintiff cause amendment to the plaint as mentioned in the IA.

2. In support of the IA plaintiff filed affidavit and stated that while preparing the plaint some facts have been omitted and they were not mentioned in the plaint. It is stated that the said omission is not intentional one but due to oversight. It is stated that the said omitted fact which is mentioned in the IA has to be inserted to the plaint. It is stated that the proposed amendment is not going to change the nature of the suit or cause of action. Further stated that if the proposed amendment is not allowed, plaintiff is going to put great loss and hardship and on the contrary if the IA is allowed no prejudice will be caused to the defendant. Hence prays to allow the IA.

3. Counsel for the defendant filed objections and stated that the IA filed by the plaintiff is not maintainable either in law or on facts. It is stated that the proposed amendment is not at all necessary for the proper adjudication of the dispute between the

parties. It is stated that the contents mentioned in the proposed amendment is false and not correct. Further stated that through the proposed amendment plaintiff intending to change the amount paid by hand to the defendant as advanced price money which was not paid by her. By contending all these grounds defendant prays to dismiss the IA.

4. Heard on IA. Perused the records. Below mentioned points arisen for my consideration.

POINTS

1. Whether the proposed amendment is require for proper adjudication of the dispute between the parties ?
2. Whether the plaintiff made out grounds to consider the IA and grant the relief as prayed for ?
3. What Order ?

5. On perusing the pleadings and on hearing the counsel for the parties on IA, my findings to the above points is as hereunder.,

Point No.1 :: In the Affirmative,

Point No.2 :: In the Affirmative.
Point No.3 :: As per final order
 for the following:

REASONS

6.Point No.1 : Plaintiff filed this IA and prays to permit them to insert the proposed amendment to the plaintiff. On the contrary counsel for the defendant resisted the IA by filing the objections.

7. The suit was filed by the plaintiff against the defendant and prays to direct the defendant to return the advance amount of Rs.15,00,000/- received by the defendant from the plaintiff on the strength of Agreement dated 22-10-2022 with interest and cost. Through this IA plaintiff intends to add Rs.20,000/- in para 2, para 6 and para 7 of the plaint and also prays to substitute Rs.15,20,000/- as Rs.15,00,000/- in the prayer column.

8. Defendant appeared through his Advocate but not opted to file the written statement. Then the matter posted for evidence, plaintiff filed IA No.II and maintain status quo order was passed against the parties to this suit still pass in the further order and in the meantime matter posted for settlement and since the matter

was not settled on 22-06-2024, plaintiff came up with this IA seeking permission to insert the proposed amendment in the plaint. Evidence of the parties is not yet commence. Defendant has not filed any written statement, there is no defense on behalf of the defendants. Since the evidence of parties is not yet commence and the matter is still at preliminary stage, this Court opines that permission has to be accorded to the plaintiff to cause amendment to the plaint by inserting the proposed amendment as mentioned in the IA. Further the proposed amendment is not going to change the nature of the suit nor change the cause of action, further the proposed amendment is required to decide the real controversy between the parties to this suit. Plaintiff made out grounds to consider the IA, hence I proceed to answer Point No.1 in the Affirmative.

9. Point No.2 : As discussed above in Point No.1, since the proposed amendment is required to decide the real controversy between the parties to his suit and plaintiff made out grounds to consider the IA and grant the relief as prayed for, hence plaintiff is entitled for the relief as sought in this IA. Hence I proceed to answer Point No.2 in the Affirmative.

10. Point No.3: For the reasons as discussed above in Point No. 1 and 2, I proceed to pass the following.,

ORDER

IA No.4 filed by the plaintiff under Order 6 Rule 17 and Section 151 of CPC is allowed on cost of Rs.100/-

Plaintiff permitted to insert the proposed amendment as mentioned in the IA to the plaint pleadings.

Counsel for the plaintiff is directed to amend the plaint.

For amendment.

Call on 05-04-2025.

**Addl. Senior Civil Judge & JMFC,
Puttur, D.K.,**

