

**IN THE COURT OF THE PRINCIPAL SENIOR CIVIL
JUDGE, HUBBALLI**

Present:

Sri. Yamanappa Karehanumanthappa,
Prl. Senior Civil Judge, Hubballi.

OS No.114/2018

Dated this the 15th day of July - 2025

Plaintiff : Ravindra Yallanagouda Patil.

.Vs.

Defendants : Raju Hiremath and Crew and another.

PARTIES TO IA No.V

Applicant : Ravindra Yallanagouda Patil.

.Vs.

Opponents : Raju Hiremath and Crew and another.

ORDER ON IA No.V

The Advocate for plaintiff has filed I.A. No.V U/o.6 Rule 17 r/w. Section 151 of C.P.C. seeking amendment of the plaint by way of inserting para No.4A after para No.4 as prayed in the application.

2. The plaintiff has sworn affidavit stating that he has filed this suit for specific performance of contract. This case is fixed for further evidence of plaintiff. The defendants have written statement after examination of PW.1. The defendants have admitted the receipt of money at one stage and denied the receipt of part of sale consideration amount

in later stage. The defendants have issued receipt on 02.11.2011 for having received the amount. Through oversight the proposed amendment could not be pleaded in the plaint at earlier stage of hearing. With due diligence he could not noticed the payment. The amendment is not intentional one. The proposed amendment is necessary for proper adjudication of the matter. The amendment will not change the nature of the suit and defence of the defendants. Hence, prayed to allow the application.

3. The counsel for defendants No.1 and 2 has filed objection to this I.A. contending that the contents of the application and affidavit are false and frivolous and not maintainable. Further contended that the plaintiff has created new story. By way of this amendment the plaintiff has introduced new facts. The plaintiff is trying to change the version seeking amendment to say that the said cheques were paid by Yallanagouda. The said amendment will change the nature of the suit. Hence, prayed to reject the application.

4. Heard and perused the records. The following points arise for my consideration:

1. Whether the plaintiff have made out grounds that the proposed amendment is necessary in order to decide the case of the parties?

2. What order?

5. My findings to the above points are as under:

1. In the Negative.
2. As per final order,
for the following:

REASONS

6. **Point No.1:** The plaintiff has filed suit against the defendants for the relief of specific performance of contract stating in para No.3 and 4 that the defendants have sold out the suit property for ₹15 lakhs and plaintiff has paid advance consideration of ₹11 lakhs through cheque. Before filing this application the counsel for Yallanagouda L. Patil filed an application U/o.1 Rule 10 of C.P.C. before this court, that application has been dismissed by this court on 11.02.2025. Thereafter, the case is posted for plaintiff evidence. After lapse of more than 7 years the plaintiff has filed this application stating that the amount was paid by Yallanagouda L. Patil. On one breath plaintiff has stated in para No.4 himself he has paid the advance sale consideration amount of ₹11 lakhs, now by way of amendment he is trying to state that the part sale consideration amount is paid by Yallanagouda L. Patil. The plaintiff has not produced any documents to show why all these facts have not been stated in earlier stage. When the application was dismissed by this court filed by counsel for Yallanagouda L. Patil, the plaintiff realized and filed this new application stating that ₹11 lakhs was paid by Yallanagouda L. Patil through cheque. Hence, the proposed amendment is

contrary to the averments of plaint para No.4 that who have actually paid part sale consideration amount. Looking into the averments of the plaint, affidavit, the plaintiff has not approached this court with clean hands and he has not shown due diligence and the proposed amendment is not necessary to decide the rights of the parties involved in this case. If this court allowed the amendment application, it will introduce new facts and will change the nature of the suit and cause of action. Therefore, I am of considered view that the proposed amendment is not required to decide the rights of the parties involved in this suit. Hence, I answer point No.1 in **Negative**.

7. **Point No.2:** In view of my answer to point No.1 as stated above, I proceed to pass the following;

ORDER

The I.A. No.V filed by the plaintiff U/o.6
Rule 17 of C.P.C. is hereby rejected.

No order as to cost.

(Dictated to the Stenographer, computerized by her, script corrected directly on computer and then pronounced by me in the Open Court on this the **15th day of July – 2025**)

(Yamanappa Karehanumanthappa)
Prl. Senior Civil Judge, Hubballi.