

IN THE COURT OF THE II ADDITIONAL SENIOR CIVIL**JUDGE AND J.M.F.C. HUBBALLI**

Present:- Smt.Deepa G Manerkar,
B.Com. L.L.B, (Spl.)
II Addl. Senior Civil Judge & J.M.F.C.,
Hubballi.

Dated this the 30th day of October 2025

O.S. No.484/2023

Smt. Saraswati W/o Arjun Devaji
Since deceased

...Plaintiff/s

-Versus –

Mallappa S/o Hanmantappa Pawar and others

.....Defendants

IA.No.V

Arjun S/o Mallappa Dasar

APPLICANT/ DEFT-8

Versus –

Smt. Saraswati W/o Arjun Devaji
Since deceased

OPPONENT/ PLAINTIFF

ORDER ON I.A.No.V FILED U/O. VI RULE 17**R/W SEC.151 OF CPC.**

The present I.A. is filed by the counsel for the defendant No.8 under order 6 rule 17 read with 151 of CPC to amend the written statement.

2. In the affidavit accompanying the IA it is sworn by defendant No.8 that after filing the written statement by defendant No.8, the original plaintiff has died and her LR's are brought on record. However, at the time of filing the written statement some important objections were left out and same are necessary to be incorporated. If the application is not allowed, defendant No.8 will be put to irreparable loss. Hence it is necessary to amend the written statement of defendant No.8 by inserting para No.16A. If the application is allowed no loss or hardship would be caused to the plaintiff. Hence, prayed to allow the application.

3. The present IA is resisted by the plaintiff by filing objections contending that the present application

is false, frivolous and vexatious and the same is not tenable under the law. The present application is filed to drag the matter when the matter is posted for plaintiff side evidence. The proposed amendment is totally contrary to the defence already set up and it will introduce new facts. Absolutely there is no any ground or reason shown by defendant No.8 to seek amendment of written statement. If the application is allowed it will cause more loss to the plaintiffs. Hence prayed to reject the I.A.

4. On the basis of rival contentions the points that would arise for my consideration is:

1. Whether the proposed amendment is necessary to decide the controversy?
2. What Order?

5. Heard arguments from both sides.

6. My findings on the above points is as follows :-

Point No.1 : In the Affirmative.
Point No.2 : As per final order
for the following;-

REASONS

7. **Point No.1:-** As I have gone through the present application in the backdrop of pleadings and materials on record. On going through the proposed amendment defendant No.8 wants to incorporate in the written statement certain facts contending that at the time of entering into agreement of sale in favour of defendant No.8, the defendant No.1 has relinquished her right and after having full knowledge the defendant No.1 and defendant No.1(c) have executed agreement of sale in favour of defendant No.8 and have given consent to it. As the defendant No.1 did not execute the sale deed in favour of defendant No.8, the defendant No.8 had filed O.S.No.4/2020 for the relief of specific performance of contract which was decreed in favour of defendant No.8 and same is binding on the plaintiff and

defendant No.1. Therefore by way of amendment the defendant No.8 wants to incorporate about the knowledge and consent of the plaintiff No.1(c) to the agreement executed by defendant No.1 in his favour. No doubt in the present case there is a some delay in filing the present application for amendment of written statement. However in the present case the trial is not yet commenced. On going through the proposed amendment neither it will introduce new cause of action nor it will cause any injustice to the other side. On the contrary the proposed amendment is necessary to be introduced in the amendment of defendant No.8. Since the proposed amendment will not work in injustice to the plaintiff and same will not change the nature of the suit cause of action or relief claimed, as such the present application deserves to be allowed. Accordingly, above point is answered in the **affirmative**.

8. **Point No.2** : In view of the findings and answer to point No.1, this court proceeds to pass the following:-

ORDER

I.A.No.V filed by the defendant No.8 U/O 6
Rule 17 R/w Sec.151 of CPC is hereby
allowed.

(Dictated on AI Adalath, corrected by her, verified by me, and then pronounced in the open court on this the 30th day of October 2025.)

Sd/-
(Smt. Deepa G Manerkar)
II Addl. Senior Civil Judge and JMFC
Hubballi.