

ORDER ON I.A. No.3

The instant application is filed by the plaintiff U/o.6 Rule 17 R/w Sec.151 of C.P.C. on 16-01-2024 seeking permission to amend the plaint by inserting some words in the plaint averments.

2. In support of the application, affidavit is filed, wherein, the plaintiff has sworn to fact that she has filed suit against the defendants for the relief of recovery of money. She is being a rustic villager and illeterate and at the time of filing of the suit, she unable to give proper instruction to her counsel to prepare the plaint. Hence, some typhographical mistakes have been crept in the plaint as to the name of the bank and date of issuance of legal notice and these facts recently came to her knowledge. Hence, it would require to permit her to rectify the said mistakes by way of amendment. The proposed amendment is no where change the nature of suit and also not taken away the valuable rights of the defendants, accordingly, she prayed to allow the application.

3. On the other hand, the counsel for the defendants filed an objection by denying the entire averments made in the affidavit annexed to the

application and contended that in order to over come the lacuna in the plaint averments, the plaintiff has come up with this application. If the plaintiff is allowed to amend the plaint, the new cause of action would arise and same is caused inconvenience and loss to the defendants. Further, the present application is barred by law of limitation. Hence, the plaintiff is not entitled for any relief sought in the application. Accordingly, they prayed to reject the application.

4. Heard on both sides and perused the materials on record.

5. The points that arise for consideration of this court are as under :

1. Whether the plaintiff has made out valid grounds to allow her to amend the plaint as sought for ?

2. What order?

6. The answers to the above points are as here under:-

Point No. 1 :- **In the Affirmative**

Point No. 2 :- As per final order. For the following :

:: REASONS ::

7. Point No.1 :- As could be seen from the record, the instant suit has been filed by the plaintiff against the defendants for the relief of recovery of money. In response to the suit summons, the defendants have entered appearance through their counsel and filed written statement. Accordingly, issues have been framed, the plaintiff was partly examined as PW-1 and when the matter was posted for further chief-examination of PW-1, the plaintiff has come up with this application.

8. As per the plaintiff, due to oversight, the date of legal notice, name of the Bank are wrongly typed in the plaint averments. Hence, she intends to rectify the said mistakes by way of amendment. But on the other hand, as per the defendants, in order to over come the lacuna on the part of the plaintiff, she has come up with this false application and she is not entitled for any relief sought in the application.

9. On careful perusal of the plaint averments, at para No.1 instead of mentioning 2021, it was wrongly typed as 2021 and 2. Further, the Ex.P-1 cheque in question has been presented before the Bank of Baroda

but it was wrongly typed as HDCC Bank at para No.3 in the plaint. Further, the date of legal notice is 16-12-2020 but at page No.3 in the plaint, it was wrongly typed as 29-03-2019, the aforesaid mistakes crept in the plaint are appears to be purely typographical error. So, under these circumstances, it is necessary to provide an oppertunity to the plaintiff to rectify the said mistakes by way of amendment. Further, the proposed amendment is no where prejudice to the rights of the defendants and also not changed the nature of suit. So, under these circumstances, this court is of opinion that the plaintiff has made out valid grounds to allow her to amend the plaint as sought. Thus, point No.1 is answered in the '**Affirmative**'.

10. Point No. 2 : In the light of forgoing discussion, this court proceeds to pass the following:

ORDER

I.A.No.3 filed by the plaintiff U/o.6
Rule 17 R/w Sec.151 of CPC is hereby
allowed on costs of Rs.300/-.

The plaintiff is permitted to amend
her plaint as sought.

For amendment and amended plaint,
call on 23-09-2024.

(Deepu B.C.)
Prl. C.J. & JMFC,
Channarayapatna.