

**IN THE COURT OF THE SENIOR CIVIL JUDGE AND JMFC AT
CHINCHOLI**

PRESENT: SRI. VIJAYKUMAR S. JATLA

**B.Sc., LL.B.
Senior Civil Judge & JMFC, Chincholi.**

DATED THIS THE 4th DAY OF DECEMBER-2021.

O.S.No.23/2021

Plaintiff : Bachupalli Nagamani

Versus

Defendants : Mehaboobsab.

Order on I.A.No-III U/o 6 Rule 17 of CPC filed by plaintiff

This is an interlocutory application filed by the plaintiff seeking permission to amend the plaint as per the proposed amendment.

2. The proposed amendment is as under:

Para 10A be inserted after para 10 of the plaint as under:

10A : That there is no cancellation of agreement by plaintiff.

The defendant got executed document of cancellation under threat of filing false police case. The plaintiff has not cancelled agreement on her own and with her own will. Therefore, the cancellation of agreement is illegal.

After 12 of the plaint para 12A be insert as under:

`12A. The relief of declaration that the document cancellation of agreement is bad in law is valued at Rs.1,000/- and paid court fee of Rs.25/- of 24(24) of K.C.F and S.V. Act.

In prayer column Para 1A be inserted after para 1 as under:

1A. A decree be passed declaration that the document of cancellation of agreement got executed by defendant from plaintiff under threat of filing false police case on 22.11.2018 is bad in law.

3. This application is accompanied by an affidavit sworn to by plaintiff. In her affidavit she has stated that the suit is filed for the relief of specific performance of contract. There is document of cancellation of agreement executed by plaintiff under threat of defendant filing false police case. The same is illegal. At the time of filing the suit due to oversight relief of declaration that the cancellation of agreement is illegal is not sought. Seeking relief of declaration regarding the alleged cancellation of agreement is necessary for just decision of the case. The propose amendment is regarding seeking relief of declaration and payment of court fee and prayer column relief. If the amendment is allowed no prejudice will be caused to other side on the other hand it will help the court to decide the case on merit and grant reliefs. Hence, it is just and proper to permit the plaintiff to amend the plaint as per proposed amendment.

4. Since the defendant is placed ex parte, there is no objection of the defendant.

5. On the basis of the above pleadings and on hearing the plaintiff's side, the following points arise for my consideration are:

- 1) Whether the plaintiff has made out grounds to allow I.A.No.III under Order 6 Rule 17 of CPC?
- 2) What order?

6. My findings on the above points are as under:

Point No:1 : In the Affirmative.

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

REASONS

7. **Point No.1:-** The case of the plaintiff and defendant is as discussed above. This is a suit for specific performance of contract in respect of suit property. This application is filed by the plaintiff for proposed amendment of plaint as stated in the proposed amendment when the matter is posted for plaintiffs evidence.

8. Advocate for plaintiff contended that there is document of cancellation of agreement executed by plaintiff under threat of defendant filing false police case. The same is illegal. At the time of filing the suit due to oversight relief of declaration that the

cancellation of agreement is illegal is not sought. Seeking relief of declaration regarding the alleged cancellation of agreement is necessary for the just decision of the case. The proposed amendment is regarding seeking relief of declaration, payment of court fee and prayer column relief. By way of amendment the nature of suit will not be changed and also no prejudice will be caused to the defendant and the case is at initiate stage and evidence of plaintiff is not yet commenced.

9. On perusal of the I.A No.III it is seen that the plaintiff has filed suit for specific performance of contract. The proposed amendment which is sought by the plaintiff is filed at the time when the matter is posted for plaintiff evidence. As the defendant did not appear before the court and placed exparte and not contested the application, it is just and proper to permit the plaintiff to amend the plaint as per proposed amendment effective adjudication of the matter. It is burden on the plaintiff to prove the case with relevant facts and evidence. The proposed amendment will not change the nature of suit and it is essential for proper adjudication of dispute and the evidence of plaintiff is not yet commenced. If the amendment is not allowed the plaintiffs is deprived of put forth her case effectively and it will leads to multiplicity of proceedings. The plaintiff made out the valid and justifiable grounds to allow I.A No.III

U/o 6 Rule 17 of CPC as prayed for. In the light of above reasons I **answer Point No.1 in the Affirmative.**

10. Point No.2:- As I have answered point No. 1 in the Affirmative for the foregoing reasons, I proceed to pass the following:

ORDER

IA-III Under Order 6 Rule 17 of CPC filed by the plaintiff is hereby allowed.

Plaintiff is permitted to amend the plaint as per the proposed amendment as stated in the I.A.No.III.

(Dictated to the directly on computer and corrected by him and then pronounced by me, in the open Court on this the **4th day of December-2021**, at Chincholi)

Senior Civil Judge & JMFC.,
Chincholi.