

ORDERS ON IA NO. 9.

The Court has verified the contents of application, affidavit and pleadings of the parties. It is settled law that, the Court may at any stage of the proceedings allow the amendment application which is necessary for the purpose of determining the real questions in controversy between the parties. But, no such application for amendment shall be allowed after the trial as commenced, unless the Court comes to a conclusion that inspite of due-diligence the party could not have raised the matter before the commencement of the trial. It is equally well settled principal that a prayer for amendment of the plaint and prayer for amendment of the written statement stands on different footings. The Court should adopt the strict procedure while considering the application for plaint amendment. Whereas, the Court should take liberal view while considering the application for amendment of the written statement. It is also settled law that, the defendants are entitled to take any number of contradictory defense in the written statement.

In so far as the proposed amendment is concerned, by way of amendment the intends to take additional defence as to non joinder of necessary parties and suit is barred by law of limitation. It is also settled law that, while dealing with amendment application Court cannot go in to the question of merit of such amendment. It can only consider whether such amendment would be necessary for decision of real controversy between the parties concerned. Mere allowing the amendment application in itself would not amount to granting the relief sought in the proposed amendment. The burden still remains on the defendant No. 9 to establish the claim made in the proposed amendment. When such being the position of law, Court do not find any hurdle in allowing the application. However, for filing this application at

belated stage the Court is of the opinion that reasonable cost should be imposed upon defendant No. 9. For the forgoing reasons, Court proceed to pass the following:-

ORDER

The I.A. No.9 filed by the defendant No. 9 U/o. 6 Rule 17 R/w Sec. 151 of C.P.C., is allowed on cost of Rs.300/-. Thereby, the defendant No. 9 is permitted to carry out the proposed amendment within 7 days from the date of this order.

For amendment and amended written statement.

Call on. 03-09-2024.

Sd/-

Senior Civil Judge & JMFC.,
Mulbagal.