

KAMS300012902023



**IN THE COURT OF THE ADDITIONAL SENIOR CIVIL JUDGE  
AND JMFC AT HUNSUR**

**Present:** Smt.Anitha, B.A. (Law) L.L.B.,  
Addl. Senior Civil Judge & JMFC.,  
Hunsur.

**Dated this the 05<sup>th</sup> day of February 2025.**

**OS No.211/2023**

Plaintiff: STATE BANK OF INDIA – A Corporation  
incorporated under the State Bank of India  
Act – 1955. Having its Corporate office at  
Mumbai, Madam Cama Road, Nariman Point,  
Mumbai and Local Head Office at St.Marks  
Road, Bangalore and also a Branch at  
B.M.Road, Hunsur, Known as Agriculture  
Development Branch (ADB), Hunsur,  
Represented by its Principal Officer and  
Branch Manager.

-Vs-

Defendant: Smt.Manjula, W/o Rajegowda.H.C.,  
Aged about 40 years, R/at Hegganduru  
village, Hanagodu Post & Hobli, Hunsur Taluk,  
  
Now residing at Manjunatha Badavane,  
Behind ITC Business division,  
Near Children Park, Old B.M.Road,  
Hunsur Town.

1.	Provision under which the application is filed	:	Under Order 6 Rule 17 of CPC
2.	Relief sought for	:	Amendment of the written statement

3.	The date on which the application is filed	:	06.11.2024
4.	Number of the application	:	IA No.I
5.	The date on which the objection is filed by opponent	:	03.12.2024
6.	The date on which the orders passed on the said application	:	05.02.2025

### **ORDERS PASSED ON IA NO.I**

The learned counsel for the plaintiff filed IA.No.I under Order 6 Rule 17 of CPC to amend the written-statement at line No.1 in para No.1.

2. The application is supported with the affidavit of the defendant stating that, the plaintiff filed the suit against the defendant for the relief of recovery of money. Detailed written statement has been filed denying the entire transaction. At the time of cross-examination of PW1 the learned counsel for the defendant observed that, at para No.1, line No.1 the defendant has admitted the entire transaction and it should have been partly admitted and the said mistake is typographical error. In order to prove the case it is very much necessary to allow the application and permit the defendant to amend the written-statement. Hence, prayed to allow the application.

3. On the other-hand the plaintiff filed the objection contending that, the application is not maintainable under law or on facts. It is further contended that, the defendant at para No.1 has admitted the entire transaction with the plaintiff in

her written-statement and present amendment will be against the law. The application is highly belated and it is filed only with an intention drag on the proceedings. Hence, prayed to dismiss the application with costs.

4. Thereafter, heard arguments addressed by learned counsels for the plaintiff and the defendant and perused the case papers. After hearing the arguments and on perusal of the case papers the points that arise for consideration are as hereunder:

#### **POINTS**

1. Whether the proposed amendment is just and necessary to determine the real questions in controversy between the parties?
2. What order?
5. The findings of the above points are as hereunder:

Point No.1: In the Negative

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

#### **REASONS**

6. **Point No.1:** The plaintiff bank filed the suit against the defendant seeking the relief of recovery of Rs.9,31,215/- with interest at the rate of 12.14% p.m. As per the plaintiff the defendant approached the plaintiff and obtained term loan under MSME PMEGP scheme for the purpose of establishing building centering material unit by name "NEETHU". The said loan was sanctioned and the defendant has executed all the loan documents. The defendant became defaulter and is liable

to pay Rs.9,31,215/- which is loan out-standing. In spite of repeated requests the defendant not chosen to repay the loan. Hence, filed this suit.

7. On the other-hand on 16.12.2023 the defendant filed the written-statement and at para No.1 the defendant specifically admitted that, she has approached the plaintiff bank for financial assistance for the purpose of establishing building centering material unit by name "NEETHU". That the defendant was eligible for establishment said business and she was sanctioned with the loan to the tune of Rs.9,31,215/- under MSME PMEGP scheme on 31.08.2020. The defendant has specifically admitted about the availing of loan itself and thereafter she has denied the total loan installments as well as the interest claimed by the plaintiff. At page No.3 of the written-statement the defendant contended that, at that time when the defendant got the said loan there was COVID-19 and the defendant could not get any profit from the invested capital and the accumulated capital was lost and sustained heavy loss. At this para also the defendant categorically admitted about the date of availing the loan. In the 3<sup>rd</sup> para at Page No.3 the defendant further contended that, from the date of sanction of loan she has paid Rs.3,49,321/- and the plaintiff bank did not give subsidy of amount of Rs.3,50,000/-. This para also speaks about admission made by the plaintiff about the availing of loan at Rs.9,50,000/- on 31.08.2020.

8. On the basis of rival pleadings of the parties this court has framed the issues and in support of the case one Anil.L.S., Branch Manager of the plaintiff bank examined himself as PW1 and got marked 13 documents as per Ex.P1 to Ex.P13. It is very important to note that, PW1 has been cross-examined at length. Nowhere the defendant contended that, the loan was not availed by her. At the stage when the case is posted for defendant evidence this application came to be filed to insert the word "Partly" after the word it is in the 1<sup>st</sup> para of the written-statement. This proposed amendment will take away the right accrued to the plaintiff by way of admission from the defendant side. Furthermore, in the later part of the written-statement the defendant has again admitted about availing of loan. The proposed amendment is not at all necessary to determine the real questions in controversy between the parties. The defendant by admitting the transaction has filed the written-statement and now she wants to take away the admission by way of amendment to her written-statement which is not at permissible. Therefore, this comes to the conclusion that, the proposed amendment is not just and necessary to determine the real questions in controversy between the parties. Accordingly, point No.1 is answered in the Negative.

9. **Point No.2:** In view of the reasons discussed above, this court proceeds to pass the following:

**ORDER**

IA No.I filed by the plaintiff under Order 6 Rule 17 of CPC is hereby rejected with costs of Rs.200/-.

(Dictated to the Stenographer, transcribed and computerized by her on the computer, transcript corrected and pronounced by me in the open court on this the 05<sup>th</sup> day of February, 2025)

**(Anitha)**

Addl. Senior Civil Judge and JMFC.,  
Hunsur.