ORDERS ON IA- VI FILED U/O VII RULE 14(3) AND IA- VII FILED U/O 6 RULE 17 OF CPC

Plaintiff bank has filed the application U/O VII Rule 14(3) seeking to condone the delay in production of documents and to amend the plaint as sought in the applications.

2. In supporting the IA No.6 the plaintiff bank manger has sworned to the affidavit and submitted that while filing the suit the proposed documents which are acknowledgment of debt executed by defendant No.1 on 20.11.2021 were misplaced. When the plaintiff was preparing for evidence it came to the knowledge that the latest acknowledgment or debt are not produced, which were kept in some other file by oversight. Hence, the application.

3. To the said application defendants have not filed any objections and it seems the defendants have no serious objection to the application. Therefore, considering the

relevancy of the documents subject to its admissibility and proof IA No.6 deserves to be allowed.

4. So far as IA No.7 is concerned it is submitted for the plaintiff bank that the defendant No.1 has acknowledged the liability in respect of the loan transactions done by the defendants in favour of the plaintiff bank on various dates and one such acknowledgment pertaining to the other four loan transaction as detailed in the plaint on 20.11.2021 could not be pleaded in the plaint. Therefore, in order to include the date as "20.11.2021 after the date 29.11.2018 in para No.30 of the plaint and to include "that at the 1st defendant has acknowledged the liability in favour of the plaintiff bank in respect of the loan transactions bearing loan account No. PSTL 3197001801039001, PSTL 3197001801072801, PSTL 3197001801118401 and PSTL 3197001801203201 on 20.11.2021 confirming their liability in favour of the bank", is necessary to be pleaded in the plaint. That the above mentioned proposed amendment does not alter or change the nature of the suit or it would take away the right accrued if any in favour of the defendants. Hence, the application.

5. This application is resisted by the defendant No.1, 2 and 4 on the ground that the averments of the accompanied affidavit to the IA speaks about the misplacement of documents, which is not acceptable, as there is an obligation on the plaintiff bank to be prudent and deligent in maintaining the documents.

Unlike common man, the bankers are not in the position of laymen and that it is a recognized financial institution having upon it several responsibilities and obligations and the above said irresponsible act of the plaintiff cannot be condoned.

It is also pertinent to note that, at the time of filing of the suit, the suggestions and recommendations of the panel advocate are taken by the plaintiff and now the mere filing of IA to include the date to the loan transactions will change the nature of the case, also changes the cause of action. The application is filed only to drag the case and take away the precious time of the court. Hence, prayed to dismiss the application.

6. In the light of the above facts and circumstances, I have heard the learned counsel for the plaintiff bank and defendants. On careful and meticulous perusal of the

materials available on record it is found that the plaintiff has filed the present suit for recovery of money. It is clearly submitted in the application and also argued that at the time of filing the suit, the documents intend to produce under IA No.6 were misplaced since, those documents were kept in some other file, hence the facts of said documents could not be pleaded and produced at the time of the filing of the suit. The said documents and proposed pleading is necessary to prove the case of the plaintiff bank. Therefore, by way of amendment, plaintiff is seeking to include the proposed pleadings to the plaint. On perusal of above said contentions and order sheet of the suit it appears that admittedly, the application for amendment is brought by the plaintiff before commencement of trial. Also there is no dispute that there is no blanket bar prohibition to reject the claim of the plaintiff seeking to amend the plaint and to plead the necessary facts and documents which are materials to prove their case. Furthermore, it is just and proper to allow the application for amendment of pleadings which are necessary to resolve the dispute between the parties effectively on merits, if the proposed amendment will not cause any harm or injury to the adverse party.

7. Therefore, in view of the above said basic principles on amendment of pleadings, the objection of the learned counsel for the defendants sans merit and liable to be rejected. In the light of background facts, the application for amendment deserves to be allowed subject to cost just to resolve the controversy between the parties and to minimize the litigation. Hence, I proceed to pass the following;

O R D E R

IA No.VI filed by the plaintiff bank U/o VII Rule 14(3) of CPC is hereby allowed, delayed is condoned and documents are received.

IA No. VII filed by the plaintiff bank U/O 6 Rule 17 of CPC is hereby allowed on cost of Rs.200/-.

The plaintiff bank is permitted to carryout necessary amendment as sought for and to furnish amended plaint by 21.02.2025.

Prl. Senior Civil Judge & J.M.F.C.,
Hunsur.