

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

Dated this the 2nd day of September 2025

**Presided Over by Smt. Bhagyamma
B.Com. L.L.B.,**

O.S./163/2022

PLAINTIFF : P.B. Mahendra

DEFENDANTS : //Vs//
Smt. Bhagyamma & others

PARTIES TO IA.NO.7

APPLICANTS : Smt. Bhagyamma & others
Defendants

OPPONENT : //Vs//
P.B. Mahendra
Plaintiff

ORDERS ON I.A.NO.VII

At the stage of cross examination of PW-1, this IA No.VII has been filed U/o.VI, Rule 17 r/w. Section 151 of CPC by the defendants seeking permission to amend the Written Statement at para 11 after the word.....invented and created for the purpose of filing the false suit.. **“The suit filed by the plaintiff is barred by limitation”**, by allowing this application in the interest of justice.

2. In the sworn affidavit annexed to IA, the defendant No.1 stated on oath that, the suit has been filed seeking for relief of specific performance of contract,

whereas the defendants have set up the plea that the suit of the plaintiff is created one and suit is barred by law of limitation. The cross-examination of PW.1 is not yet commenced, which amounts to pre-trial amendment. So, the proposed amendment is necessary and to curtail multiplicity of the proceedings. Hence, she prayed to allow the amendment as prayed in IA.

3. On the other hand, the learned counsel for the plaintiffs filed detailed objection stating that, the application is not at all maintainable under law and facts of the case. The evidence of plaintiffs already recorded and PW-1 has been examined. At this stage, the defendant no.1 has filed this application to amend the written statement, which is belated one. This IA which is not at all sustainable and same is liable to be dismissed and prayed to reject the IA.

4. Heard and perused the records which are available in this case.

5. Now the point that would arise for my consideration are as under:

Whether the defendants have made out sufficient grounds to insert the proposed amendment as prayed in the IA No.VII ?

6. My answer to the above point is in the **affirmative** for the following:-

REASONS

7. In this case, the plaintiff has filed this suit against the defendants for the relief of specific performance of contract. In the affidavit defendant no.1 has stated that, the proposed amendment could not be inserted at the time of filing written statement on their behalf. Hence, this proposed amendment is necessary for fair adjudication of the matter. Even though the plaintiff has resisted the application by stating that the application is filed after examination of PW-1 and only to protract the proceedings. On perusal of the pleadings, chief-examination of plaintiff is already recorded, when it was posted for cross-examination of PW.1, the present application is forthcoming to consider the application prayer. It will not take away any valuable right of other side. In fact, it is seen that, soon after commencement of trial by plaintiff side and at the stage of cross examination, the proposed amendment is sought by the defendants in order to take specific defence at para 11 of written statement after the word.....invented and created for the purpose of filing the false suit... **“The suit filed by the plaintiff is barred by limitation”**.

8. In the decisions reported in 2022(3) KCCR page 2078, 2015(3) KCCR 2656, ILR 2015 KAR 4596, SAR 2015 Civil 815, special page 816, ILR 1997 KAR 543, 2019(4) KCCR 3313, wherein the Hon'ble Courts have observed

that, 'Amendment of plaint and amendment of Written Statement stand on a different footing and a liberal approach has to be taken, in allowing the amendment of written statement albeit inconsistent pleas taken in the written statement.'

9. Further it is held that, 'a party cannot be refused just relief merely because of some mistake, negligence, inadvertence or even infraction of rules of procedure and court always gives relief to amend the pleading of the party, unless it is satisfied that the party applying was acting malafide or that by his blunder he had caused injury to his opponent which cannot be compensated for by an order of cost.

10. As stated above, the defendants the defense that the suit of the plaintiff is created one and suit is barred by law of limitation. As such it will not take away any valuable right on the other side. Considering the facts and circumstances of the case on hand, the proposed amendment is quite required to determine the real dispute between parties in the interest of justice. In order to avoid multiplicity of proceedings, it is incumbent to give opportunity to amend the proposed amendment. If the amendment application is allowed, no prejudice would be caused to the other side. On the other hand, it will cause injustice to defendants, if it is not allowed. Hence, this court is of the opinion that, the amendment application is deserves to be allowed. Accordingly, I answer the above point in the **Affirmative**.

11. In the result, I proceed to pass the following:-

ORDER

I.A.VII filed by the defendants U/O. 6, Rule 17 of CPC is hereby allowed on cost of Rs.500/-.

Hereby permitted to amend the written statement as per schedule amendment denoted in I.A.No.VII.

To carry out amendment and for furnishing amended written statement forthwith without making any further delay.

Call on 12.09.2025

(Dictated to the stenographer, directly on computer, typed by him, corrected by me and then pronounced in the open Court, this the **2nd day of September, 2025**)

**Addl. Sr. Civil Judge & JMFC,
Hunsur.**