

The learned counsel for plaintiff filed application IA No.IX U/o.6 Rule 17 R/w.151 of CPC for amend the plaint as sought in the application. The application is supported by affidavit.

The learned counsel for defendants filed objections opposed the same to allow the application.

Heard and perused. This is a suit for Specific Performance of Contract. The plaintiff seeking alternative relief to refund the advance amount with interest. When an application is made seeking amendment of pleadings, such application cannot be allowed, (1) when the nature of the suit/ proceeding is about to change if allowed, (2)if the amendment results in introducing new cause of action and the amendment intends to prejudice the other party, (3)if it defeats the law of limitation. This is well settled principal in the citation reported in Rajkumar Gurawara Vs. M/s.S.K.Sarwagi & Co., AIR 2008 SC 2303 : 2008(7) Scale 471 : 2008 AIR SCW 4007. After perusing the amendment sought by the plaintiff, I hold that it would not change the nature of suit if the application is allowed. Hence it is just and necessary to pass the following order.

The application IA No.IX
U/o.6 Rule 17 R/w 151 of CPC
filed by the plaintiff is hereby
allowed. The plaintiff is permitted
to carryout the amendment as
sought in the application and to
furnish amended plaint.

For Amended plaint.

Call on :

**Senior Civil Judge & JMFC,
Channapatna**