

ORDERS ON I.A. FILED U/O.6 RULE 17 R/W SEC.151
OF C.P.C.

The defendant No.1 has filed this I.A. No.VIII Under order 6 Rule 17 R/w Sec.151 of C.P.C. on 03-11-2025 seeking amendment of the plaint as sought in the I.A.

2. In the accompanying affidavit the defendant No.1 has stated that, plaintiff has filed the present suit for specific performance of contract. The defendant No.1 submits that, there is no sale transaction between them and the plaintiff with respect to the suit schedule properties and it is only a loan transaction held between them. They have obtained the loan amount of Rs.50,000/- from the plaintiff agreeing to repay the said hand loan amount with interest to the plaintiff and for the security of said hand loan amount, the plaintiff had obtained the signatures of them to the blank papers. But, when they failed to pay the said loan amount to the plaintiff, by taking undue advantage of said signatures of them in the blank papers, he has created and concocted alleged sale agreement dated 28.10.2013 said to has been executed by them with

respect to the suit schedule property. But they have not executed the said alleged sale agreement.

Further defendant No.1 submits that, the plaintiff has given wrong boundaries to the suit schedule properties and the said boundaries furnished by plaintiff in the schedule of the plaint are absolutely wrong and even he has not given any documents to prove the extent and boundaries of suit schedule properties. Even the plaintiff has not produced any partition deed or any other documents to prove that him and by brothers and sisters partitioned the suit Sy No.369 totally measuring 1 acre 22.04 guntas standing in the name of their mother Madlemariyamma W/o Anthonappa among them. The plaintiff without consent and knowledge of them, has created and concocted said alleged sale agreement dated 28.10.2013 in the blank stamp paper in his name. Even the plaintiff has not produced any document to prove that the extents and boundaries mentioned in the plaint schedule have fallen to his share. Further he submits that, the suit schedule property is not belonged to them and so far him and his brothers and sisters have not partitioned their joint family properties. The properties

mentioned in the plaint schedule have not fallen to his share and even the katha of the suit schedule property is also not standing in the names of them. By suppressing all the above said facts the plaintiff has created and concocted the alleged unregistered sale agreement in his name and on the basis of said alleged agreement of sale, he has filed the above suit by furnishing wrong boundaries and wrong extent without producing any documents in this regard. On all these grounds defendant prays to allow the application.

3. On the other hand plaintiff have filed objection to the present application and contended that, the application filed by the 1st defendant is not maintainable either in law or on facts and the same are liable to be dismissed in limine. The applicant has sworn to a false affidavit. The SPA holder of plaintiff further submits that, the above suit filed by the plaintiff is in the year of 2015 itself, the 1st defendant filed his written statement in the year 2015 itself after lapse of 10 years the 1st defendant has come up with the present application, the 1st defendant has taken the same contention of application in the earlier written statement, hence the present application filed by the 1st

defendant is not maintainable to patch up the lacuna in the evidence of plaintiff's evidence, the 1st defendant has filed the present application without any valid reasons.

Further plaintiff submits that, the defendants counsel took sufficient time to cross examination of the SPA holder as well as other witness of P.W.2 and P.W.4 even the defendants counsel did not cross examine the P.W.2 and P.W.4, even sufficient opportunity given by this Hon'ble court and this Hon'ble court has rejected the prayer of defendants counsel. The defendant did not ready to close the case as early. But on the other hand one or other way filed this type of application to kill the precious time of this Hon'ble court. The proposed amendment not necessary. Hence the application filed by the 1st defendant is liable to dismissed. On all the grounds SPA holder of plaintiff prays to dismiss the application with exemplary cost.

4. I have heard both sides and perused the records.
5. This suit is for the relief of specific performance of contract. The applicant/defendant wants to amend the plaint as sought in the I.A.

6. I have also gone through Order VI Rule 17 of CPC, which reads as under;

“ 17. Amendment of pleadings: The court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties;

Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.”

7. The amendment in the pleading is to be allowed if the amendment sought for the purpose of determining the real question in controversy between the parties. But in the present case on perusal of the application it appears to the court that, the present suit filed by the plaintiff against the defendant for specific performance. The defendant submits at the time of filing the suit plaintiff has mentioned wrong boundaries of the suit schedule property, but suit is of the year 2015 and cross examination of P.W.1 is completed. The defendant come up with this application and sought for amendment of

boundaries and extension as the written statement averments. So on perusal of submission made by the defendant and perusal of the document is clearly goes to show that the amendment sought by the defendant is not subsequent development. Further in the written statement averment the defendant is not mentioned about the fact, if the present application is allowed duly change the cause of action and nature of the case the reason mentioned in the application is not satisfactory accordingly the court proceed to pass the following order;

: O R D E R :

**The I.A. No.VIII filed by the defendant
U/o.6 R. 17 of C.P.C hereby Rejected.**

**Sd/-
(VINAY .V. KUNDAPUR)
II Addl. Civil Judge & JMFC.,
Kanakapura.**

(Order pronounced in open court vide separate order)

: ORDER :

The I.A. No.VIII filed by the defendant U/o.6 R. 17
of C.P.C hereby Rejected.

**II Addl. Civil Judge & JMFC.,
Kanakapura.**

Cross of P.W.2 to P.W.4

Call on: 25-02-2026

**II Addl. Civil Judge & JMFC.,
Kanakapura.**