

KARN320020892014



**IN THE COURT OF II ADDL. CIVIL JUDGE & J.M.F.C.,
AT KANAKAPURA.**

Present: Smt. Savita Rudragouda
Chikkanagoudar., B.A., LL.B.,
II Addl. Civil Judge & JMFC,.
Kanakapura.

Dated: This 25th day of October 2024

O.S. No.484/2014

Plaintiff: Smt. Nagamma
(By Sri. S.V.V., Adv.)

//Vs.//

Defendants: Sri. A.C.Doreswamy and another
(By Sri. A.B.S., Advocate)

I.A No.6

Defendant No.2

Applicant : Smt. Lakshamma
-V/S-

Plaintiff

Opponent : Smt. Nagamma

ORDER ON I.A No.6 UNDER ORDER VI RULE 17 R/w
SEC 151 OF CPC FILED BY THE DEFENDANT No.2

The present application under order VI Rule 17 Read with section 151 of the Civil Procedure Code filed by the defendant No.2 to permit her to amend the written statement in the interest of justice and equity.

2. In the application the defendant No.2 has sought the permission to permit her to insert after para No.7(a) the facts regarding execution of sale agreement in her favour by defendant No.1 before the execution of sale deed and about receipt of part of sale consideration amount of Rs.1,00,000/- through cheque. In the affidavit accompanying the application, the defendant No.2 states that, due to lack of information and documents she has not pleaded the said facts at the time of filing of the written statement. The proposed amendment will not introduce any new facts on the other hand it will assist the court for the proper disposal of the case on merits. Hence, prays to allow the application.

3. In the objection filed to said application, the plaintiff submits that, the application filed by the defendant No.2 does not satisfy any of the ingredients U/o 6 Rule 17 of CPC and same does not comes within the purview of said provision. Denying the contention taken by the defendant No.2, the plaintiff submits that, the defendant No.2 has filed written statement long back and now she has filed the present application just with an intention to drag on the proceedings and to give the unnecessary trouble and harassment to the plaintiff. If the application is allowed the plaintiff will be put to severe hardship and greater injustice. On these grounds prays to reject the application.

4. Heard both the sides. Perused the materials placed on record.

5. Now the points that would arise for my consideration are as follows:-

1. Whether the defendant No.2 has made out grounds that proposed amendment would be necessary

for adjudication of the matter in question effectively ?

2. What Order?

6. My answer to the above points are as follows.

Point No.1: In the Affirmative

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

REASONS

7. **Point No.1:** The present suit is filed by the plaintiff seeking the relief of Specific Performance of Contract and when the matter is pending for cross of PW.1, defendant No.2 has come up with the present application to permit her to amend the written statement to state the facts regarding the agreement of sale entered between the defendant No.1 and 2 before the execution of sale deed and also about the receipt of part of sale consideration amount of Rs.1,00,000/- through cheque on the ground that, due to lack of information the said facts were not pleaded earlier.

8. On the other hand, plaintiff has objected to the said application stating said application does not satisfy ingredients U/o 6 Rule 17 of CPC and the said application is filed just with an intention to drag on the proceedings and to harass the plaintiff. Hence, prays to reject the application. So far as objection taken by the plaintiff is concerned the findings on the same requires full fledged trial and the amendment sought by the defendant No.2 is concerned, as the suit is one for Specific Performance of Contract and defendant No.2 is seeking to state the facts regarding execution of sale agreement in her favour before executing sale deed, the said amendment only appears to be explanatory of facts already pleaded and does not introduce any new facts. The amendment sought will assist the court in the proper and complete adjudication of the matter before it. The court at this stage while considering the IA, cannot go into the merits of the facts which the party seeking to insert by way of an amendment and allowing of the present application would not affect the

plaintiff adversely, as she has a right to cross examine the defendant on the facts sought to be inserted by way of amendment. Hence for the aforesaid reasons **I answer the Point No.1 in the “Affirmative”.**

9. **Point No.2:-** For the reasons discussed above, I proceed to pass the following:-

ORDER

I.A No.VI filed under Order VI Rule 17
R/w Sec. 151 of CPC by the defendant
No.2 is hereby allowed.

Defendant No.2 shall carry out
amendment as prayed for and furnish
amended written statement.

(Dictated to the Stenographer directly on computer, then corrected and pronounced by me in the Open Court on this **25th day of October 2024**)

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