



**IN THE COURT OF THE ADDL. SENIOR CIVIL JUDGE & J.M.F.C.,
AT: MAGADI**

Present:

Sri. Sandeep S. Reddy, B.A., LL.B.,
Addl. Senior Civil Judge & JMFC, Magadi

DATED : THIS THE 15th DAY OF DECEMBER, 2023
OS.No.222/2019

Plaintiff : Smt. Sharadamma,
W/o. Renukaradhya,
Aged about 42 years,
R/at: Ground Floor,
Municipal Khata No.136/788/721,
& 137/789/722.
Agrahara Beedi (Road),
Magadi Town, Magadi,
Ramanagara District.

(By **Smt. P.A.V.** Advocate)

---V/s---

Defendants : 1. Smt. Anitha,
W/o. Late. M. N. Nagarajashetty,
Aged about 53 years,

2. Sri. Dhanush M. N.,
S/o. Late. M. N. Nagarajashetty,
Aged about 24 years,

Both are R/at: Agrahara Beedi,
Magadi Town, Magadi,
Ramanagara District.

(By **Sri. M.N.** Advocate)

**ORDER ON IA NO.III**

The aforesaid suit is a suit for specific performance and consequential reliefs.

2. The plaintiff has filed the present application U/O.14 rule 5 of C.P.C., praying this court to amend the issues for properly determining the matters in controversy between the parties. The plaintiff states in the accompanying affidavit that, the total sale consideration amount of Rs.40 lakhs. That, the plaintiff had paid Rs.15 lakhs on 27.06.2015 and Rs.5 lakhs on 02.07.2016 and remaining sale consideration amount to be paid is Rs.20 lakhs. He further states that, the issue No.1 is not properly casted and hence prays for amendment of issues.

3. The defendants have not filed their objections.

4. Heard arguments of both counsel.

5. Considering the contentions of the counsel, following points arise for my consideration as under.



1. Whether the plaintiff has made out grounds to amend the issues No.1 and recast the same as sought for ?
 2. What order?
6. My findings for the above points are as under.
- | | | |
|------------|---|---|
| Point No.1 | : | In the Affirmative |
| Point No.2 | : | As per final order
for the following ; |
- REASONS**
7. **Point No.1**: - It is the case of the plaintiff that, he had entered into the agreement for sale consideration of Rs.40 lakhs. It is further the case of the plaintiff that, he has paid Rs.15 lakhs on 27.06.2015 and Rs.5 lakhs on 02.07.2016. He further states that, the remaining sale consideration is Rs.20 lakhs.
8. The aforesaid facts are clearly presented in para No.3 of the plaint. The proposed amendment is sought only to bring on record the issue in tune with the facts of the case.



O.S.No.222/2019(Or.)

9. The present issue No.1 reads as follow:

"Whether the plaintiff proves that, she paid Rs.5,00,000/- on 02.07.2015 out of remaining sale consideration of Rs.25,00,000/- to defendant?"

The aforesaid issue does not clearly bring on record the facts, which the plaintiff pleads in his pleadings. I am of the view that the following issue No.1 is required to be re-casted as under;

RECASTED ISSUE NO.1

"Whether the plaintiff proves that, in the total sale consideration of Rs.40 lakhs only she paid Rs.15,00,000/- on 27.06.2015 and Rs.5,00,000/- on 02.07.2016 out of remaining sale consideration of Rs.20,00,000/-?"

10. In these circumstances, considering the application, objections and the pleadings and in view of the above observation, I decide point no.1 in the Affirmative.

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11. **Point No.2:** - In view of reasons on point No.1, I proceed to pass the following,

ORDER

**I.A.III filed U/o.14 Rule 5 r/w Sec.151 of CPC by
the plaintiff is hereby allowed.**

Parties to bear their own cost.

(Dictated to the Typist directly on the computer, typed by her, corrected by me and then pronounced in the open court on this the **15th day of December, 2023.**)

**(Sandeep S. Reddy)
Addl. Senior Civil Judge & JMFC
Magadi.**