

KATK810001172019



**IN THE COURT OF PRL. CIVIL JUDGE & JMFC., AT SIRA**

**Dated this the 7<sup>th</sup> day of December 2021**

**PRESENT :Smt. ASHA K.S.**  
**B.A.L., LL. B.,**  
Prl. Civil Judge & JMFC.,  
Sira

**O.S.NO. 19/2019**

**PLAINTIFF :** G. Suresh

**/Vs/**

**DEFENDANTS :** Nagaraju & another

**Parties in I.A. No.4**

**APPLICANT :** G. Suresh

**/Vs/**

**OPPONENTS :** Nagaraju & another

**ORDERS ON I.A. No.4**

This is an application filed by the Applicant/plaintiff U/Or. VI Rule 17 of CPC seeking permission to add para No. 4(a) in the plaint by way of amendment.

**2.** In the affidavit annexed to the application, the applicant has stated that he has filed suit for the relief of specific performance of contract. During the pendency of suit, defendants No.1 and 2 alienated the schedule property in favour of defendant No.3 on 17.07.2018 and 25.10.2018. The plaintiff is claiming right under the agreement of sale dated 29.06.2017. Without the knowledge of plaintiff, the defendants have alienated the schedule properties. As on today, defendants No.1 and 2 are not the owners of the schedule properties. It is subsequent to filing of suit, hence, the plaintiff could not plead the same at the time of filing of suit. Hence, proposed amendment is necessary to adjudicate the matter. Hence, prays to allow the I.A.

3. The defendants have not filed objections to the application.

4. The following points that arise for consideration:

1. Whether the applicant/plaintiff has made out sufficient grounds to allow the I.A.?
2. What order?

5. Heard on plaintiff's side and perused the records.

6. The above points are answered as under;

Point No.1: In the **Affirmative**,

Point No.2 : **As per Final Order**

for the following;

### **REASONS**

7. **Point No.1:** The plaintiff has filed the suit for the relief of specific performance of contract in respect of schedule properties. Now the plaintiff is seeking permission to amend the plaint to insert para No.4(a) in the plaint.

**8.** The plaintiff and defendants No.1 and 2 have entered into agreement of sale on 29.06.2017. On the date of agreement, the plaintiff has paid Rs. 2,30,000/- as advance. Though the plaintiff has demanded to execute the sale deed, but defendants postponed to execute the sale deed. Thereafter, the plaintiff has filed this suit. During the pendency of suit, defendants No.1 and 2 alienated the schedule properties in favour of defendant No.3. Hence, applicant could not plead the said facts in the plaint. Hence, praying to grant permission to amend the plaint to plead additional pleadings regarding sale transaction between defendants No.1 and 2 and defendant No.3.

**9.** On perusal of record, it is noticed that, as per sale deed executed by defendants No.1 and 2, the proposed defendant became the owner of the schedule property. At the time of filing of suit, the plaintiff sought relief in respect of defendants No.1 and 2 only. As per subsequent event, i.e.,

alienation of schedule properties, additional pleadings regarding sale transaction between the defendants No.1 and 2 and the proposed defendant is necessary to adjudicate the matter. As stated above, defendants have not filed objections to application. It shows that they are admitting the sale transaction during the pendency of suit. If the application is not allowed, the right of the applicant will deprive. Hence the proposed amendment regarding sale transaction is also necessary to adjudicate the matter on hand. The subsequent purchaser also claiming right over the schedule properties. In the absence of proposed amendment, the plaintiff could not plead additional pleadings in the plaint. Accordingly, this point is answered in the **Affirmative**.

**10. Point No.2:** In view of finding on Point No.1, this court proceed to pass the following;

**ORDER**

I.A. No.4 filed by the Applicant/plaintiff  
U/Or. VI Rule 17 of CPC is hereby allowed.

The plaintiff is directed to carryout the  
amendment.

(Dictated to the stenographer on computer, computerized and  
printout taken by her, then corrected, singed and pronounced  
by me in the open Court on **07.12.2021**)

**(ASHA K.S.)**

Prl. Civil Judge & JMFC.,  
Sira