

KAUP010013092024



**IN THE COURT OF THE II ADDITIONAL
DISTRICT/COMMERCIAL COURT JUDGE AT UDUPI**

Present

Sri.A.SAMIULLA.

B.Sc, LL.B.,

**II Addl. District & Sessions Judge,
Udupi.**

Dated: 27th Day of February 2026

OS.No.69 of 2024

*** * ***

PLAINTIFF:

Sri.Ganesh Hegde

(By Sri.APH)

Versus

DEFENDANT:

Sri.Ananda Kulal

(By Sri.UPK)

IA.No.II

Applicant/Defendant;

Sri.Ananda Kulal

Versus

Opponent/Plaintiff;

Sri.Sri.Ganesh Hegde.



Provision under which IA is filed	Under Order VI Rule 17 CPC
Relief sought for	Amendment of WS
Date of filing of applications	03.09.2025
Application No.	II
Date of filing objection	17.09.2025
Date of order	27.02.2026

Defendant moved this application under Order VI Rule 17 CPC seeking leave to amend the written statement. The proposed amendment reads as follows;

At page-6, paragraph-15, delete from the 9th line beginning with the word “THE” up to the 13th line ending with the words “HIS OWN SIGNATURE OR NOT”, and in its place insert the following:

The defendant respectfully submits that he had absolutely no knowledge of the alleged agreement relied upon by the plaintiff. The said document is a concocted and fraudulent



creation. The plaintiff, in collusion with the Bank Manager, by dishonest means, procured the signature of the defendant without his consent and knowledge. The defendant emphatically states that he has never entered into nor executed any such agreement at any point of time. At no stage did the plaintiff approach the defendant for execution of the alleged agreement, and hence the question of the defendant voluntarily executing such a document does not arise. The so-called agreement is a fabricated and fraudulent document, created only for the purpose of misleading this Court, and therefore it is liable to be rejected outright. The defendant, at the very outset, submits that the present suit is not maintainable either in law or on facts, as it is founded upon a false, fabricated, and fraudulent document styled as an agreement. The plaintiff, with malafide intention, has concocted the said document by unlawfully obtaining the signature of the defendant



without his consent or knowledge. The defendant has never executed nor agreed to execute any such agreement with the plaintiff. Hence, the very basis of the suit is vitiated by fraud, and therefore the plaint deserves to be dismissed in limine with exemplary costs.”

2. Plaintiff resisted the application by filing statement of objections.

3. Heard arguments; perused records.

4. Following point arises for consideration;

Whether proposed amendment is necessary for complete and effective adjudication of real controversy between the parties?

5. Answer to the above point is in the ***affirmative*** for the following;

REASONS

6. At the outset; suit is filed for recovery of ₹13,85,033 asserting that; defendant agreed to supply 500 centering sheets @ rate of ₹1,600



per sheet & submitted quotation for ₹8 lakhs & received advance of ₹2 lakhs on 20.04.2023 confirming the booking. The original agreement is with the bank of Baroda, where plaintiff had availed loan to pay balance amount of ₹6 lakhs.

a) Plaintiff availed loan on 25.04.23 and paid the same to the defendant on same day via RTGS. To meet the legal requirements they entered into an agreement dated 27.06.23 and as per agreement defendant is liable to supply 500 centering sheets on or before 05.07.23 & in case of default he agreed to repay the amount with interest & also agreed to pay rent @ rate of ₹2.50 per sheet per day till he supplies.

b) The entire consideration amount of ₹8 lakhs was paid, but the defendant failed to perform his part of contract despite repeated



demands. A Legal notice dated 28.11.2023 was issued, but to no avail. The defendant issued a false reply notice dated 08.12.2023, hence, the suit is filed.

7. Defendant filed written statement denying plaintiff allegations & contended that he has not obtained advance amount of ₹2 lakhs. He and defendant are neighbours & were in good terms. Upon plaintiff's request he issued a dummy bill dated 20.04.2023 on the letter head of his shop showing he has received ₹2 lakhs from the plaintiff. The dummy bill is not any GST bill. He carries business transactions only through bank transfer. At the time of engaging him with the work of preparing centering sheets the plaintiff told that he had applied for bank loan of ₹8 lakhs as per the quotation from bank of



Baroda and he should pay a dummy bill for ₹2 lakh so that bank will sanction a sum of ₹6 lakhs as loan to the plaintiff. The plaintiff had started the business of giving centering sheets on rent from June 2023 which shows the centering sheets existing in plaintiff's possession are the centering sheets which he had supplied to him.

i) On 24.04.2023, plaintiff has transferred from his bank account the loan amount of ₹6 lakhs to the defendant's bank account. Thereafter, on 29.04.24 the plaintiff approached him saying that he had transferred a sum of ₹6 lakhs to his bank account and he urgently needs ₹50,000 & requested to transfer ₹50,000 and he would repay it at the time of supplying centering sheets. Accordingly, on 29.04.2023 he



transferred ₹50,000.

ii) On 09.06.2023, defendant has supplied all centering sheets worth of ₹6 lakhs. After few days he informed the plaintiff and stated that he had to prepare GST bill and requested to repay ₹50,000. Thereafter, plaintiff contacted him saying some procedure is pending regarding loan of ₹6 lakhs and requested him to visit the bank and put signatures on some documents. When he had been to the bank the then manager obtained 7-8 signatures on some documents. He did not know whether he had put his signatures on the agreement produced by the plaintiff along with the plaint. He cannot confirm whether the signatures appearing in the agreement are of his own or not. He never had the intention to enter into any agreement



either with the plaintiff or with plaintiff's bank.

Hence, prayed to dismiss the suit.

8. After completion of pleadings, settlement of issues, matter set for trial. Plaintiff examined himself as Pw1. Defendant failed to cross-examine the plaintiff. When matter was set for further evidence on the side of plaintiff, the defendant filed the present application along with another application to recall the Pw1 for cross-examination by stating that after careful perusal of pleadings the amendment of pleadings necessitated to provide a clear and more complete statement regarding the specific defence of the defendant. The proposed amendment is in the nature of clarification of already existing facts. If it is allowed no



prejudice will be caused to other side.

9. The plaintiff objected the application by contending that the Commercial Courts Act, 2015, would not permit amendment of pleadings at the belated stage. The application is filed to drag the proceedings. Amendment sought is not permissible under law. In reply notice the defendant stated that he has not put signature to the agreement and it was reiterated in the written statement. Now the defendant wants to delete the said pleadings and wants to incorporate a different story by saying that the agreement is fabricated & fraudulent document and created by the plaintiff. Now he admits his signature on the agreement which he had denied in his reply notice. But he says that his signatures on agreement were taken without



his knowledge and with the involvement of the Bank Manager. The defendant legally cannot be permitted to incorporate such false & imaginary pleadings. If the amendment is allowed the plaintiff will be subjected to great hardship. Hence, prayed to reject the application.

10. It is well settled principle that; all amendments ought to be allowed which satisfy two conditions viz., not working injustice to the other side and of being necessary for the purpose of determining the real questions in controversy between the parties.

11. It is pertinent to note that; suit is filed for recovery of money. The rival pleadings manifest that the dispute revolves around the suit agreement dated 27.06.2023. Plaintiff asserted that the defendant executed the agreement.



Whereas, defendant though initially contended that he does not know whether the disputed agreement bears his signature or not. Now he wants to plead that the said agreement bears his signature but it was taken fraudulently.

12. The proposed amendment does not take away any legal right of the plaintiff; rather, it narrows the controversy by admitting the signature, thus, saving the Court's time in adjudicating the genuineness of the signature. Further the proposed amendment is necessary to determine the real controversy between the parties to lis.

13. The proposed amendment is more in a clarify nature and it doesn't amounts to any withdrawing a fact but rather providing



necessary context that was missing due to narrow drafting.

14. If the proposed amendment is allowed no prejudice will be caused to the plaintiff because the entire burden is on the defendant to prove the facts asserted by him.

15. It is worth to note that; the rule of amendment is indeed a rule of justice, equity and good conscience. Power of granting amendment should be exercised in the larger interest of doing full and complete justice to the parties before the Court. Amendment is granted unless the party seeking amendment acts malafide. Here, there is no malafide on the part of defendant in seeking amendment, which is necessary for effective



adjudication of lis.

16. Discussion *supra* manifest that; the proposed amendment is necessary to determine the real questions in controversy and it will not cause any prejudice to other side. Proposed amendment will not alter the nature of defence. Thus, application deserves to be considered. In light of the discussion *supra* the above point is answered in affirmative and proceeds to pass the following;

O R D E R

IA-II; under Order 6 Rule 17 CPC
filed by the defendant is allowed.

Defendant is permitted to amend the



written statement. recalled for cross-examination.

No order as to costs.

(Dictated to the stenographer, transcribed by her, corrected and signed by me and then pronounced in open court on this the 27th day of February, 2026.)

(A.Samiulla)
II Addl. District Judge/PO,
Commercial Court, Udupi.