

CS DJ 917/19**M/S CREATIVE INC Vs. ANIL KUMAR****27.04.2026**

Present: Sh. Arvind Chaudhary and Sh. Ankur Saini, Ld. Counsel for plaintiff alongwith AR for plaintiff.
Sh. Dheeraj Kumar, Ld. Counsel for defendant

ORDER

1. Vide this Order, I shall decide application u/o VI rule 17 CPC filed by the plaintiff seeking amendment of the plaint.

2. Ld. Counsel for the plaintiff would argue that the present application has been filed when the plaintiff, upon interacting with the son of the earlier principal officer of Yogisecret Healthcare Pvt. Ltd., was informed about the financial arrangement between the parties. The email dated 26.04.2019 titled 'Final Terms of Association' was inadvertently deleted from the history of the plaintiff's emails. The said email was again forwarded to the plaintiff by the son of Sh. Anil Khandelwal on 20.12.2024. The plaintiff could not file the said email on record on earlier occasion as the said email was inadvertently deleted from the email history of the plaintiff. Even though the plaintiff's contract with Yogisecret Healthcare Pvt. Ltd. was terminated, the son of the principal office of the defendant company, who is presently managing the same, was kind enough to find out the old emails and he again shared the same with the plaintiff. The suit was originally instituted by the plaintiff for a claim of Rs. 2,50,000/- on a bonafide

assumption that plaintiff's agreement with Yogisecret Healthcare Pvt. Ltd. was a monthly contract at Rs. 1,25,000/- however, on receipt of email on 20.12.2024, the plaintiff realized that it's contract with Yogisecret Healthcare Pvt. Ltd. was a contract for current as well for coming years. Besides, an assured sum of Rs.1,25,000/-, the plaintiff was to be given products in the sum of Rs.75,000/- per month and was entitled to sweat equity upto 5% of the company over a period of time. In view of the same, the plaintiff seeks to amend the certain relevant paragraphs of the plaint with the prayer clause. The plaintiff accordingly seeks permission to amend the cause of action para no. 21 of the plaint and the plaintiff wants to amend para no. 13 regarding the valuation of the suit and also wants to amend the relief clause. The discrepancies had occurred due to lack of the proper understanding of the factual position in the matter. After going through the old records and upon getting the communication exchanged with the client, the plaintiff sought legal advise and the plaintiff was advised to file appropriate application to seek necessary amendments. The delay in seeking the amendments is neither deliberate nor willful. The suit is at the initial stage and no issues have been framed till date. No prejudice shall be caused to the defendant if the proposed amendments are allowed. The amendments sought by the plaintiff are necessary for determining the real controversies between the parties and the proposed amendments are essential to ensure that the pleadings and prayer clause accurately reflect the plaintiff's claim. Hence, it is prayed that amendment application may be allowed.

3. On the other hand, Ld. Counsel for the defendant would argue that the proposed amendment introduces a claim which is barred by law of limitation. The plaintiff wants to enhance her claim based on an email dated 26.04.2019. The application for amendment was filed on 30.01.2025. The plaintiff wants to change the fundamental nature and character of the suit by way of proposed amendment. It is settled that if a fresh suit on the amended claim would be barred by limitation on the date of application for amendment, such amendments would be declined. The plaintiff has also failed to satisfy that she had done due diligence and despite due diligence, she could not have raised the matter before commencement of trial. The evidence by way of affidavit has already been filed. There is no justification as to why the email dated 26.04.2019 was retrieved on 20.12.2024. Hence, the application deserves to be dismissed.

4. I have considered the submissions and perused the record.

5. The plaintiff has filed the present suit for permanent injunction, mandatory injunction, compensation for loss of business, goodwill and damages. It is stated in the plaint that the plaintiff hired services of the defendant on the position of Art Director. However, the behavior of the defendant was violent and abusive with female colleagues and office administrators. The management of the plaintiff company received multiple complaints. Complaints were also given at Local Police Station on which FIR was registered. Due to behavior of the defendant, the

management of the plaintiff company served show cause notice dated 09.08.2019. On 12.09.2019 and 13.09.2019, the defendant sent emails denying the contention of show cause notice. Vide email dated 18.09.2019 the plaintiff asked the defendant as to when he resume the position. The defendant did not join the service. Due to non joining of service and negligent act of the defendant, the work of the plaintiff company was affected which resulted in loss of client to the plaintiff company. The plaintiff lost one of the best paying client and plaintiff is on the verge of losing many more clients. Hence, the suit.

6. Initially, the claim was filed by the plaintiff for an amount of Rs. 1,25,000/- per month in relief (e) which read as, “*Direct the defendant to compensate the loss of business arising out of his negligent and deliberate actions, amounting to Rs. 1,25,000/- per month from the date of termination of contract by the Client which amounts to Rs. 2,50,000/- alongwith 18% interest annually till final disposal of the present suit and also direct the defendant to pay Rs. 1,25,000/- per month from the date of filing of this suit till final disposal of the suit.*”

7. By way of present amendment, the plaintiff wants to amend relief (e) and amended relief is reproduced as, “*e) Direct the Defendant to compensate the loss of business arising out of his negligent and deliberate actions, amounting to sum of Rs. 24,00,000, for termination of the contract by the client along with 18% interest annually till final*

disposal of the present suit and direct the defendant to pay a sum of Rs. 2,00,000/- per month till the disposal of the suit”

8. In the plaint, the plaintiff has claimed that the client of the plaintiff namely M/s Yogic Secret Healthcare Pvt Ltd has cancelled the contract of Rs. 1,25,000 per month due to severe delay and due to absence of defendant from the work place. It is alleged that due to actions of the defendant, the plaintiff lost one of the best client. The plaintiff has initially claimed damages @ 125000 per month due to loss of client. Now the plaintiff wants to increase that claim to Rs. 24 lacs. The relief of damages was already claimed in the suit and by way of amendment, the plaintiff wants to enhance damages amount claimed in the original plaint. Whether such relief is barred is law of limitation is matter of trial.

9. It is matter of evidence and trial whether the plaintiff has not approached the court with clean hands. For inordinate and unexplained delay in the filing of the amendment application, the defendant can be adequately compensated by way of cost.

10. Ld. Counsel for the defendant has relied upon judgment passed by Hon'ble Supreme Court in the matter of **Mallavva And Anr Vs Kalsammanavara Kalamma (since dead) by legal heirs, Civil Appeal No 14803/2024 & Ors, Revajeetu Builders & Developers v. Narayan Swami & Sons (2009) 10 SCC 84** and **Harsharan Singh vs. Surinder Kaur Narula & Ors, C.R.P. 58/2015**. I have gone through the judgments. The

judgments relied upon by Ld. Counsel for the defendant is distinguishable from the facts of the present case.

11. The amendment is allowed subject to law of limitation to be decided during trial and mini trial can not be held at the stage of application for amendment. There is no doubt that there has been delay in moving application for amendment and the plaintiff could have asked Yogisecret to forward the email long back if the plaintiff had lost that email from its records. For the delay in moving the present application, the plaintiff is burdened with cost of Rs. 15,000/- to be paid to the defendant.

12. In view of above discussion, **the application under order VI rule 17 CPC seeking amendment of plaint is allowed. Amended plaint is taken on record.** Let cost be paid on next date. Let amended WS be filed on next date with advance copy to the plaintiff.

13. Be put up for payment of cost, filing of replication, affidavit of admission denial by both parties and framing of issues on **17.08.2026**.

(NEHA)

District Judge-06/South East
Saket Court/27.04.2026