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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 22nd DAY OF AUGUST, 2003

BEFORE:

THE HON'BLE MR. JUSTICE N.S. VEERABHADRAIAH

CIVIL REVISION PETITION No.371 OF 2003

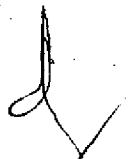
BETWEEN:

Sri Ramlingeshwara Crushers Pvt. Ltd.,
Sy. No.18, Kabbla Village,
Hosadurga taluk,
Chitradurga District,
Rep. by its Director/
Production Engineer,
B.M. Eshwarappa.

... PETITIONER

(By Sri. D.C. Jagadeesha, Adv.)

AND:

1. Managing Director/Chairman,
Karnataka State Construction
Corporation Ltd., No.1096,
Dr. Rajkumar Road, I Block,
Rajajinagar,
Bangalore-10.
 2. Chief Accounts Officer,
Karnataka State Construction
Corporation Ltd., No.1096,
Dr. Rajkumar Road, I Block,
Rajajinagar,
Bangalore-10.
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3. General Manager,
Karnataka State Construction
Corporation Ltd.,
Adadi Road, Davangere.

4. Pradeep,
Assistant Engineer,
Office of the General Manager,
Karnataka State Construction
Corporation Ltd.,
Adadi Road, Davangere,

Now working as Assistant Engineer,
Karnataka State Construction
Corporation Ltd.,
Shimoga.

5. Prakash,
Near B.D.O & P.W.D. Officer,
Right side extension,
Nelamangala,
Bangalore District.

6. Lokesh,
C/o. Prakash, Near B.D.O & P.W.D. Officer,
Right side extension,
Nelamangala,
Bangalore District.

... RESPONDENTS

(By M/s. G.C. Shivashankar, Adv. for R5,
M.R.C. Ravi, K. Ramachandran,
K.L. Ramesh, Adv. for R1 to R3,
M.R.C. Ravi, Adv. for R5)

* * *

This CRP is filed under Section 115 of
C.P.C., against the Order dt.13.1.03 passed on
I.A. No.7 in O.S. No.230/2001, on the file of the
Addl. Civil Judge (Jr. Dn.), Hosadurga,
Dismissing I.A. No.7 filed u/O.6, R 17 of C.P.C.
for amendment of the plaint.



This CRP coming on for Orders this day, the court made the following:

ORDER

This is the plaintiff's revision, being aggrieved of the Order passed on I.A. No.VII in O.S. No.230/2001, by the Addl. Civil Judge (Jr. Dn.), Hosadurga, dated 13.01.2003, rejecting I.A. No.VII.

2. The brief facts are as follows:

The plaintiff filed the suit against the defendants for recovery of the balance amount of Rs.27,364-00 towards the supply of "Jelli". At para 5 of the plaint it is pleaded that the plaintiff has also received an amount of Rs.2,00,000-00 from defendants 5 and 6 who have undertaken the road repair work. When the matter was in the stage of recording evidence, the plaintiff filed an application to incorporate certain amendment as prayed in I.A. No.VII.



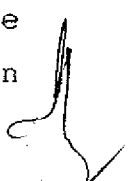
Learned J.M.F.C. after hearing both side, dismissed the application with an observation that it is not permissible to grant the relief. It is this Order, which is questioned in the present revision.

3. Learned counsel Sri. B.C. Jagadeesh for the petitioner contended that the amendment sought for does not change the nature of the suit or alter the cause of action and the application is filed only on abundant caution. Therefore, the dismissal of I.A. No.VII by the trial court is not sustainable. Accordingly, prayed to allow the revision, permitting to incorporate the amendment as sought for.

4. Learned counsel for the respondent Sri. M.R.C. Ravi justified the impugned Order and prays to dismiss the revision.

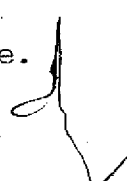
5. In the light of the submissions, the point for consideration that arises;

Whether the rejection of the application to incorporate certain




amendment in para 5 of the plaint does call for interference? If so, liable to be interfered with?

6. On going through the plaint and the impugned Order, it shows that the suit of the plaintiff is for recovery of the balance amount to the tune of Rs.27,364-00. In the amendment application, it is pleaded that they have received certain amount from defendants 4 and 5 through cheque. It is this portion, which is required to be added in para 5 of the plaint. In the plaint, it is specifically stated that regarding the supply of "Jelly" and also receiving an amount of Rs.2,00,000-00 from defendants 5 and 6. The balance amount due according to the plaintiff is Rs.27,364-00. From the very nature of the amendment sought for, it is clear that it will not change the nature of the suit or cause of action. Therefore, the rejection of I.A. No.VII is not proper and sustainable.



Accordingly, this revision petition is allowed, permitting the plaintiff to carry out the amendment as prayed in I.A. No.VII.

Sd/ 
Judge

Ksm*