

**Thimmo Gowda Vs. Kalegowda**

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**SooperKanoon Citation :** [sooperkanoon.com/380341](http://sooperkanoon.com/380341)

**Court :** Karnataka

**Decided On :** Nov-07-1985

**Reported in :** ILR1986KAR960

**Judge :** Chandrakantaraj Urs, J.

**Acts :** [Code of Civil Procedure \(CPC\) , 1908](#) - Sections 16(1) - Order 6, Rules 7 and 17

**Appeal No. :** C.R.P. No. 3156 of 1984

**Appellant :** Thimmo Gowda

**Respondent :** Kalegowda

**Advocate for Pet/Ap. :** C.R.V. Swamy, Adv.

**Judgement :**

1. This Civil Revision Petition by the plaintiff is directed against the Order dated 16-7-1984 of the Munsiff, Krishnarajapet, made in I.A. No. II, in O.S. No. 40/83.

2. The Original Suit filed by the plaintiff was one for specific performance of the contract, by the defendant. By I. A. II he sought an amendment of the plaint to read that the plaintiff at all times was ready and willing to perform his obligations under the agreement and he continued to be willing to do so even on the dace of the presentation of the plaint In other words, the original plaint did not contain

these averments. The application came to be rejected on the ground that such an amendment was impermissible having regard to the law laid down by the Supreme Court and this Court. Aggrieved by the same, the present revision is tiled under Section 115 of the Code of Civil Procedure.

3. Mr. C.R.V. Swamy, Learned Counsel for the plaintiff-petitioner has 'drawn my attention to the ruling of the absence of specific pleading in conformity with the requirements of the law to be found in Clause (c) of Section 16(1) of the Specific Relief Act as well as in conformity with the First Schedule of the plaint forms specified for suit for specific performance in the C.P.C. the suit would not be maintainable.

5. In that view of the matter, there is no error of jurisdiction of illegality in the order of the Learned Munsiff, which calls for interference under Section 115 C.P.C. I am fortified in this view by the view taken by this Court in the case of Palthur Honour Saheb v. Bopanna Annapurnamma, ILR 1985 KAR 3243.

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