

Specific Relief Act, 1963, Section 22 (2) - Civil Procedure Code 1908 (V of 1908) Order 6, Rule 17 - Amendment of Plaint - An amendment in the prayer clause relating to the refund of earnest money can be inserted at any stage during the pendency of the suit

Initially the plaintiff had filed the suit for injunction praying for restraining the defendant from alienating the suit property in any manner, but later on he sought amendment in order to seek relief of possession by way of specific performance of the agreement to sell - Language contained in proviso to sub Section 22 (2) leaves no room for any doubt that this section introduces elasticity in the prayer clause of the existing plaint, by enabling the plaintiff to add the relief of refund of earnest money at any stage of the suit - Here it needs to be noticed that in every suit for specific performance of contract, primary prayer by the plaintiff is regarding enforcement of an agreement, whereas the prayer for refund of earnest money is an alternative relief - Thus, the prayer for refund of earnest money being ancillary relief in nature to the primary prayer in the suit can be added subsequently - An amendment in the prayer clause relating to the refund of earnest money can be inserted at any stage during the pendency of the suit.

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