

Title Suit No. 661 of 2013

Jai Prakash Mahto VS Arbind Verma and others

01 / 10 / 2019 - Today record is put up for passing an order on the petition dated 16 / 07 / 2018 filed by the plaintiff under section 148 CPC . According to the plaintiff , he had filed an amendment petition which had been allowed by the court on the date 27 / 03 / 2018 subject to payment of cost of Rs. 1,000/-. The plaintiff could not deposit the cost in time. So, amendment could not be incorporated and the plaintiff was ill so he could not come to court and deposit the cost. The plaintiff is ready to desposit the cost now hence it is therefore prayed to allow the plaintiff to incorporate the amendment. Defendants filed his rejoinder and submits that the petition dated 16.07.2018 filed by the plaintiff is totally misconceived, untenable and fit to be rejected and initially the plaintiff had filed an amendment petition on 03.04.2017 which was allowed by this court on 27.03.2018 on a cost of Rs. 1,000/- but the plaintiff did not deposit the amount of cost and incorporated the amendment within stipulated period and thereafter after lapse of much time the plaintiff filed a petition under Section 148 of C.P.C. for extension of time which was also allowed, but even then the plaintiff again did not avail the opportunity and in this

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way again that order became in fructuous and again the plaintiff has filed same petition under Section 148 of C.P.C. with a same prayer for extension of time which is totally bad in the eye of law and after amendment of C.P.C. no time more than 30 days can be extended to incorporate the amendment, but here in this case the plaintiff even after extending the time did not avail the opportunity and in this way again no opportunity can be given to the plaintiff to incorporate the amendment and prays for the rejection of petition . After analysis of sec 148 CPC it is opinion of the court that section 148 of CPC provides the power to court to enlarge the time for complying the order of the court from time to time . Section 148, C.P.C. provides that where any period is fixed or granted by the Court for the doing of any act prescribed or allowed by the Code, the Court may, in its discretion, from time to time, enlarge such period, even though the period originally fixed or granted may have expired. Various situations can be envisaged where a party to the proceeding is prevented by circumstances beyond his control from doing the required act within the fixed period .Section 148 clothes the Court with ample power to do justice to a litigant if sufficient cause is made out for extension and that an order extending time for amendment though passed after the expiry of the time

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fixed, could operate from the date on which the time fixed expired. In the instant case no sufficient cause . In the instant situation plaintiff mentioned the cause of delay is illness of the plaintiff which is sufficient for allowing the petition u/s 148 CPC . Hence petition dated 16 / 07 / 2018 filed by the plaintiff under section 148 CPC is hereby allowed on a cost of Rs -1000=00 (one thousand only) payable to the defendant . Plaintiff is directed to amend the plaint accordingly within 14 working days from receiving of this order .Put on the date 25 / 10 / 2019 for the compliance of this order .


Sub-Judge , Bakhri 01.10.19