IN THE COURT OF MUNSIF, TEGHRA, BEGUSARAI, BIHAR

Title Suit No. 268/2011

In the matter of:
Bashishtha Mishra & Anr. ..... Plaintiffs

Versus

Shambhu Jha & Ors. ..... Defendants

Presided over by:-
Shri Shailendra Kumar
Munsif, Teghra, Begusarai

Present: Ld. Counsel for the Plaintiffs: *Sh. Rajesh Kumar Prasad*, Adv.
Ld. Counsel for the Defendants: *Sh. Sanjeev Kamal*,
Smt. Sonal Kumari, Advs.

ORDER

[This order be read in continuation to order dated 20.08.2025]

Pending adjudication of the captioned title suit, an application dated 03.09.2025 was filed on behalf of the Plaintiffs, under Order XLVII, Rule 01 of the Code of Civil Procedure, 1908 read with Section 114 of Code of Civil Procedure, 1908, praying therein to "be pleased to allow the review petition and permit the plaintiff to do amendment."

Ld. Counsel for the Plaintiffs submits that the Plaintiffs filed an application for amendment under Order VI Rule 17, on 25th April 2025, seeking amendment in the plaint at paragraph 30. Through the said application, it has been prayed that figure (4) has been left to be typed before figure ₹31,000/-. In response to the abovesaid application, a rejoinder was also filed by the Defendant on 9th May 2025.
Ld. Counsel for the Plaintiffs further submits that this Court heard both the parties on the point of amendment and rejected the application for amendment of the Plaintiffs vide it's order dated 20th August 2025.
It was further submitted that this Court while passing the rejection order of the application for amendment, did not consider the ambit of Order VI Rule 17, which has been clearly observed by the Hon'ble Supreme Court of India in various judgements and made an observation against the Plaintiffs of **"Forum Shopping"**.

Ld. Counsel for the Plaintiffs further submits that it is apparent from the case record that trial of the instant suit is yet to commence and Plaintiffs have not made any prayer for transfer of present suit from this Court to another.

Further, it was submitted that the suit land, over which the declaration has been sought by the Plaintiffs, is more than 04 *bigha*, for which the valuation of present suit is ₹31,000/- which is not justifiable and due to typing mistake it has been mentioned ₹31,000/- instead of ₹4,31,000/-.

Ld. Counsel for the Plaintiffs continues to submit that this Court, vide it's order dated 20.08.2025, has observed that the instant amendment application was filed by the Plaintiffs immediately after the case record was transferred from the Court of Civil Judge (Senior Division), *Teghra*, to this Court, on the ground of pecuniary jurisdiction, and this transfer drew the attention of the Plaintiffs towards the typing mistake pertaining to valuation.

Ld. Counsel for the Plaintiffs argues that Hon'ble the Supreme Court of India, in it's various judgements has held and observed that during the course of hearing of application which has been filed under Order VI Rule 17 of Code of Civil Procedure,1908, the Court should look only to the provisions of Order VI Rule 17. In the latest judgment dated 24th September 2024, passed by Hon'ble the Supreme Court of India, has issued some guidelines for allowing and not allowing the amendment petitions. In **Pirgonda Hongonda Patil V. Kalgonda Shidgonda Patil (AIR 1957 SC 363)** wherein, it has been held that all amendments ought to be allowed which satisfy the two conditions: (a) of not causing injustice to the other side, and (b) of being necessary for the purpose of determining the real questions.

Also, Hon'ble the Supreme Court of India, in **Life Insurance Corporation of India V. Sanjeev Builders Pvt. Ltd.**, held certain principles:-

> (i) All amendments are to be allowed which are necessary for determining the real question in controversy provided it does not cause injustice or prejudice to the other side. This is mandatory, as is apparent from the use of the word "shall", in the latter part of Order VI Rule 17 the CPC.
>
> (ii) In the following scenario such applications should be ordinarily allowed if the amendment is for effective and proper adjudication of the controversy between the parties to avoid multiplicity of proceedings, provided it does not result in injustice to the other side.
>
> (iii) Amendments, while generally should be allowed, the same should be disallowed in- 2022 SCC OnLine SC

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(a) By the amendment, the parties seeking amendment does not seek to withdraw any clear admission made by the party which confers a right on the other side.

(b) The amendment does not raise a time-barred claim, resulting in the divesting of the other side of a valuable accrued right (in certain situations)

(c) The amendment completely changes the nature of the suit;

(d) The prayer for amendment is *mala fide*,

(e) By the amendment, the other side should not lose a valid defence.

(iv) Some general principles to be kept in mind are (1) The court should avoid a hyper technical approach ordinarily be liberal, especially when the opposite party can be compensated by costs.

Ld. Counsel for the Plaintiffs argues that the order dated 20th August 2025, passed by this Court finds the application a case of **"Forum Shopping"** which is not proper in the eyes of law. This Court has also not explained any objectives as laid down by the Hon'ble Supreme Court of India while rejecting the amendment petition of the Plaintiffs.
The amendment sought by the Plaintiffs is neither causing injury to the Defendants nor withdrawing any admissions of fact. It is the most formal amendment in which typing mistake was to be corrected that is why present review petition has been filed.

Per Contra, the Defendant preferred to file rejoinder dated 15.09.2025, wherein, it has been argued that instant review petition filed by the Plaintiffs is totally misconceived, untenable and against the fact and law. Review petition is not in a proper form and on this score alone instant review petition is fit to be rejected. It was further argued that suit was filed in the year 2011 and when the suit was transferred from Sub-Judge to *Munsif, Teghra,* on the ground of valuation and thereafter when the suit was fixed for hearing on the point of maintainability, only then the application for amendment has been filed. It is important to note here that earlier too, an application for amendment was filed and at that time the Plaintiffs did not raise any objection regarding the valuation of the suit. Plaintiffs, only to delay the disposal of the application for maintainability and to keep the Defendants in perpetual agony filed the instant review application. On the face of the order, neither any factual aspect nor a legal position has been incorrectly mentioned rather the order is well discussed based on hard fact and law. Further, Ld. Counsel for the Defendants argued that as per Order XLVII, Rule-1 the review petition can be filed when a new fact has been

discovered which was not known earlier or in the face of order there is illegality and irregularity and in this way the review petition is not maintainable.

Heard both the counsels at length. Perused the record. On perusal it transpires that it is pertinent to refer Order XLVII, Rule-1 of the Code of Civil Procedure, 1908, which reads: -

> **1.Application for review of judgment. —** (1) Any person considering himself aggrieved—
> (a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,
> (b) by a decree or order from which no appeal is allowed, or
> (c) by a decision on a reference from a Court of Small Causes,
> and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.
> (2) A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate Court the case on which he applied for the review.
> [Explanation. —The fact that the decision on a question of law on which the judgment of the Court is based has been reversed or modified by the subsequent decision of a superior Court in any other case, shall not be a ground for the review of such judgment.]
> 3. Form of applications for review. —The provisions as to the form of preferring appeals shall apply, mutatis mutandis, to applications for review.
> 4. Application where rejected. — (1) Where it appears to the Court that there is not sufficient ground for a review, it shall reject the application.

From the bare reading of the above provision, it transpires that the legislature intended to permit the review of an order or decree on a very limited ground i.e. “from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason.”

Perusal of the record reveals that neither anything new has been placed before the Court nor anything new has been argued in the instant application, which was not placed and argued in the earlier application dated 25.04.2025, in consequent to which order dated 20.08.2025 was passed. Hence, in the considered opinion of this Court, the instant provision for review does not apply, in the given circumstances.

It is pertinent to mention herein that the instant suit was filed in the year 2011, suit was valued ₹31,000/– and accordingly declaratory court fee of ₹270/- was paid. Since then, it was being tried before the Court of Ld. Sub-Judge. During the pendency of the suit, an application dated 15.11.2018 for amendment was brought by the Plaintiffs, seeking various amendments of substantial in nature. Interestingly, the abovesaid application doesn't contain the instant sought amendment.

From the above facts, it transpires that the Plaintiffs got opportunities to correct the so-called mistake- (i) at the time of submitting Court fee, (ii)at the time when they filed application dated 15.11.2018 for amendment. However, the Plaintiffs never availed the opportunities. Particularly, when the Court fee was being calculated, it cannot be said that for a suit of the value of ₹4,31,000/– a Court fee of ₹270/- was mistakenly calculated and paid. The Plaintiffs failed to realise their mistake even at the time of filing application for amendment dated 15.11.2018, wherein they have sought many substantial amendments. The only time it realises their mistake, is when the matter was transferred to this Court on the ground of pecuniary jurisdiction. Therefore, the conduct of the Plaintiffs is self-explanatory i.e. the so-called mistake does not appear to be a mistake rather a conscious decision.

Therefore, keeping in view the provision above mentioned, facts and circumstances and the reasons abovesaid, this Court is not inclined to allow the instant application, in the interest of justice.

With this order, the instant application and respective rejoinder are being disposed of.

Put up on **08.12.2025**.

Munsif
Teghra, Begusarai
24.11.2025