

In the Court of the Sub Judge-II, Benipur

Present:- Pranav Kumar Bharti

Title Suit No.-32 of 2018, Registration No.-35/18

Amitabh Choudhary & Others vs. The State of Bihar & Other

13-12-2021

Case is called out and record is produced before me. A vakaltan hazari is filed on behalf of the Plaintiff and defendant. On perusal of the case record, it appears that this instant suit has been pending for order on petitions dated-27.02.2019 filed on behalf of the Plaintiff, U/O-VI, Rule-17 of the Civil Procedure Code herein after referred as the C.P.C. In this petition, it is submitted that due to inadvertence slip and typing mistake some relevant facts left to be mentioned in the plaint and some irrelevant facts have been mentioned in the plaint unnecessarily which requires amendment in the plaint. It is further submitted that if the Court will be pleased to allow the petition of the plaintiff, in that circumstances neither nature of the suit will be change nor defendants of the suit will prejudice. The trial of the suit has not begun, hence the learned Court be pleased to allow the amendment petition and accord the permission to the plaintiff to amend the same as depicted in the petition for the ends of justice.

A rejoinder petition has been filed on behalf of the Defendant, the State of Bihar on 03.11.2021. In this petition, it is submitted that petition dated-27.02.2020 as framed and filed by the plaintiff is not maintainable in the eye of law. Further submission of the defendant is that said petition of the plaintiff has been filed at belated stage of the case and State of Bihar has already filed the W.S. disclosing their defence. Further submission of the defendant is that proposed amendment shall change the nature of the case and State shall suffer irreparable loss, if proposed amendment is allowed. Thus said petition of the plaintiff is without any merit which deserves to be rejected to meet the ends of justice. Hence, it is prayed that your honour be pleased to reject the petition dated-27.02.2020 filed on behalf of the plaintiff.

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continued.....

Heard both Ld. counsel of plaintiffs and A.G.P. and perused the case record. On hearing and perusal of the case record, it appears that a petition u/o-VI,Rule-17 has been brought by the plaintiff on 27.02.2020. In this petition, submission of the plaintiff is that due to inadvertence mistake by the typist, some mistake have been crept in the plaint. Some relevant facts couldn't be mentioned in the plaint while some irrelevant facts have been mentioned in the plaint unnecessarily which requires amendment in the plaint. It appears to the Court that proposed amendment in the plaint as prayed by the plaintiff are simple in nature. It is necessary to remove the vagueness of the plaint and the proposed amendment will not change the nature of the suit or cause of action. So far as the plea of the Ld. A.G.P. regarding filling of petition at belated stage is concerned, the Court is of view that according to the provision enshrined U/O-VI,Rule 17 of the C.P.C; an amendment petition can be filed at any stage of the proceedings except the commencement of trial.

Thus, petition u/o-VI,Rule-17 dated-27.02.2020 filed on behalf of the plaintiffs is allowed. Plaintiff is directed to amend the plaint accordingly within 15 days. Further, defendant may file additional W.S. if they want within 20 days of such amendment.

Fixing on ...~~20-01-22~~... for amendment in plaint.

Dictated

Sub Judge-II

13.12.21