

CNR No: PBKPA00006372022

CIS No: CS-482-2022

IDBI Bank VS Kamaljit Singh etc.

Present: Sh. Raman Narang, Advocate for the plaintiff.
Sh.K.S.Jhikka, Advocate for defendant No.2.

Reply to application under Order 6 Rule 17 CPC not filed by defendant No.2. However, learned Counsel for defendant No.2, suffered statement that under the instructions of defendant No.2, it is hereby stated that the present application filed under Order 6 rule 7 CPC by the plaintiff is pertaining to the alienation of the suit property, which includes machinery and other movable and immovable assets of the defendant No.2, however it is pertinent to mention here that all the movable and immovable properties of defendant No.2 are duly attached and the same is under the possession of the government as the same is duly sealed and attached by the government. So the defendant No.2 under no capacity can sell, alienate or transfer the same as the defendant No.2 himself is not under the possession of the same. So the present application may kindly be disposed of as per law.

2. The plaintiff bank filed application under order 6 rule 17 CPC seeking to add the relief of permanent injunction on the grounds that plaintiff filed suit for recovery against the defendants and defendant no.2 gave undertaking and guarantee for the loan advanced to defendant No.1. The defendant No.2 intends to alienate the property in order to prevent the plaintiff from recovering the amount in question. Accordingly, the relief of permanent injunction is required to be added in the present suit. However, the relief of permanent injunction has not been incorporated earlier due to inadvertently. The proposed amendment is necessary for proper adjudication of the case.

3. Having heard both the parties, this Court is of the view that the law regarding amendment is liberal. Under order 6 rule 17 CPC, the Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner, which may be just and reasonable.

All such amendments, which are necessary for the purpose of determining the real questions in controversy between the parties may be allowed by the Court. Although, in this case, the trial is at initial stage and the defendant No.2 is yet to file written statement. No prejudice is going to cause to the rights of the defendant if application is allowed. Moreover, the proposed amendment will not change the nature of the present case. Hence, the application in hand is allowed and disposed of accordingly.

Reply to an application u/o 7 Rule 11b CPC for rejection of the plaint not filed. Now, case also stands adjourned for 11.12.2023 for filing of reply of aforesaid application.

Munadi Fee not deposited. Ld. Counsel for the plaintiff is directed to deposit munadi fee within one week and then notice to defendant No.1 through munadi be issued for the date fixed.

Date of Order: 20.10.2023
Dolly Pal

(Surekha Dadwal)
ACJ(SD), Phagwara
UID NO . PB0341