

TS No. 177/2023
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Nesar Ahmed v/s Chokat Baitha

04/06/2024 1. Parties present. Record is put up for order on the petition dated 16/01/2024 filed by the plaintiff under Order 6, Rule 17 of the CPC for amendment of plaint. Rejoinder to this petition has been filed by the defendant on 04/04/2024.

2. The submission of the learned counsel for the plaintiff is that the plaintiff Nesar Ahmed filed the present suit for declaration and confirm his right, title and possession along with relief of injunction over the suit land. During pendency of the suit certain subsequent events happen, and submits that the plaintiff harvested the paddy crops, grown by him over the suit land on 28/11/2023 and left the paddy crops over the suit land for drying and in the evening of 31/11/2023 the defendant and his family members began collecting the "Pasai" of paddy crops and made bundles of the crops and after that they fled away with the said paddy bundles thereby the defendant and his family members looted the harvested paddy crops causing a substantial damage of two quintals paddy, valued Rs. 4000/- and this subsequent event is necessary to be brought on plaint by way of amendment causing no prejudice to defendant. Further submission is that the subsequent events accrued during the pendency of the suit and hence it is necessary in the interest of justice that the same may be incorporated in the plaint.

3. The proposed amendment are as follows:-

1. A new para no "8A" be allowed to be added as follows "That, the plaintiff harvested the paddy crops, grown by him over the suit land on 28-11-2023 and left the paddy crops over the suit land for drying and in the evening of 31-11-2023 the defendant and his family members began collecting the "Pasai" of paddy crops and made bundles of the crops and after that they fled away with the said paddy bundles, meaning thereby the defendant and his family members looted the harvested paddy crops caused a substantial damage of two quintals paddy, valued Rs. 4000/- (Four Thousands)".

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2. In Para no 10 line no 5 after the word "08-08-2023" and the before the word when, the following word "and on subsequent date 28-11-2023 and 31-11- 2023 when the defendant looted away the paddy crops" to be added.

3. A new relief number "12-B" be allowed to be added as "the court be pleased to pass a decree for damages of Rs. 4000/- caused to plaintiff and let it be recovered from the person and property of defendant through the process of court".

4. The relief no "B", "C" and "D" be rechanged as "C", "D" and "E".

5. After the descriptions of the suit land following words be added as follows "Damages worth Rs 4000/- caused to plaintiff by looting away the paddy bundles".

4. It has been submitted by the learned counsel that the aforesaid proposed amendments will not change the nature and character of the suit and if these amendments would not be allowed, it will result to miscarriage of justice with the plaintiff. Hence the proposed amendments are required to be allowed according.

5. The learned counsel for the defendant ardently opposed the aforesaid prayer of the plaintiff and submitted that the facts under the proposed amendments are not bona fide fact of the plaintiff and amendment is not at all maintainable either in the eyes of law or on the facts and circumstances in this case. And submits further that that the plaintiff has got neither any right, title nor possession over the suit land and wrongly field present suit for declaration of right title and confirmation of possession. The paddy crops grown by the defendant over the suit land peacefully harvested by him. The story of harvesting collection of pasai of paddy crops and allegation of loot is all false and fabricated allegation against the defendant for making illegal pressure against the defendant who is quite poor person and comes within down trodden class and story of loot of harvested paddy crops is false thus

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the question of damaged does not arise all. It is submitted further that the plaintiff was possession over the suit land since 11/04/1961 to 25/04/1969 on the basis of mortgage. The plaintiff himself returned the original deed and possession to the defendant by writing on back page of original rehan deed dated 11-04-1961. Thus the question of possession over the suit land doesn't arise at all and then the claim of plaintiff through amendment in plaint is baseless and any amendment allowed shall put in serious irreparable loss and will change the nature of the suit and hence is fit to be rejected.

6. Heard both side at length and perused the record. It appears that the proposed amendments under new **para 8A** and **para no 10 line 5** “*after the word*”... and “*before the word*”... are the fact related with the subsequent event related with the suit land , whereas **para 12B** are the reliefs originated from the facts as mentioned under **para 8A** of the proposed amendment. From the rejoinder of the defendants, it appears that they have objection as to inclusion of facts which are the subsequent events of this suit as the plaintiff has got neither any right, title nor possession over the suit land and wrongly field present suit for declaration of right title and confirmation of possession. While dealing with power of the Court to take note of subsequent events and then to grant, deny or modify the relief sought for in the plaint, the honourable Apex Court in ***Om Prakash Gupta Vs. Ranbir B. Goyal 2002 (2) SCC 256*** held:-". *The ordinary rule of civil law is that the rights of the parties stand crystalised on the date of the institution of the suit and, therefore, the decree in a suit should accord with the rights of the parties as they stood at the commencement of the lis. However, the Court has power to take note of subsequent events and mould the relief accordingly subject to the following conditions being satisfied : (i) that the relief, as claimed originally has, by reason of subsequent events, become inappropriate or cannot be granted; (ii) that taking note of such subsequent event or changed circumstances would shorten litigation and enable complete justice being done to the parties; (iii) that such subsequent event is*

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brought to the notice of the Court promptly and in accordance with the rules of procedural law so that the opposite party is not taken by surprise. Such subsequent event may be one purely of law or founded on facts. In the former case, the Court may take judicial notice of the event and before acting thereon put the parties on notice of how the change in law is going to affect the rights and obligations of the parties and modify or mould the course of litigation or the relief so as to bring it in conformity with the law. In the latter case, the party relying on the subsequent event, which consists of facts not beyond pale of controversy either as to their existence or in their impact, is expected to have resort to amendment of pleadings under Order 6 Rule 17 of the CPC. Such subsequent event the Court may permit being introduced into the pleadings by way of amendment as it would be necessary to do so for the purpose of determining real questions in controversy between the parties."

7. In the instant case, the subsequent events are founded on facts which is well under the pale of controversy and it has impact on the merit of this case. The relief portion of the proposed amendment is an outcome of the subsequent event and in order to avoid multiplicity of proceedings, it is expedient in the interest of Justice that it should be decided in this suit, moreover the subsequent events and the reliefs are related with the merit of the case.

8. In the light of aforesaid discussion, as such Order 6 Rule 17 is intended for promoting the ends of justice and not for defeating them therefore *the petition of the plaintiff dated 16/01/2024 is accordingly allowed* .The defendants are at liberty to file an additional WS or amend the present written statement but only with the facts related with the reply of the amended statements of the plaintiff.

9. **The plaintiff is accordingly directed to amend the plaint .Furthermore the defendants must submit the additional written statement or amend the present**

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**written statement within 15 days from the date of incorporation of amendment by
the plaintiff in the plaint.**

Put up on **25/06/2024** for incorporation of Amendment by the Plaintiff.

Sub-Judge I
Narkatiaganj