

CS No. 400/14

22.02.2016

Present : Proxy Counsel for the plaintiff.

None for the defendant.

Arguments on the application U/o 6 rule 17 CPC filed by the plaintiff for amendment of the plaint already heard. I have considered the submissions and records.

By way of this application the plaintiff wants to amend para 24 of the plaint to add that plaintiff is engaged in the business of particular area described in the North-East. It is contended that the nature of the suit do not changes from this amendment and no prejudice is likely to be caused to the defendant at all.

Ld. Counsel for the defendant did not reply the application and argued that this suit is filed only to delay the legal proceedings and fill up the lacuna regarding territorial jurisdiction of this court as contented, the pecuniary issue regarding territorial jurisdiction has been framed, the parties lead their evidence, after conclusion of the arguments on the preliminary issue, this application is filed to cover up the merits.

The contention of Ld. Counsel for the defendant appears to be true. Moreover, the plaintiff has already explained the area of its working and no such purpose shall be served after amendment of the plaint as prayed by the plaintiff, this application is filed only to nullify the preliminary issue framed regarding territorial jurisdiction which is not permissible. The judgment relied by Ld. Counsel for the plaintiff reported as **2003 (27) PTC, tiled Lakha Ram Sharma Vs. Balar Marketing and AIR 2002, Supreme Court 3369** is not applicable in

the facts and circumstances of this case. The amendment prayed by the plaintiff appears to be not necessary for the purpose of determining the real question in controversy between the parties. The application is accordingly dismissed, in the interest of justice cost is not imposed.

Put up for arguments on preliminary issue, if any on
31.03.2016.

(G. N. PANDEY)
ADJ-02(NE)/22.02.2016