

22.08.2023

Present: Sh. F.A. Beneisrail, ld. counsel for plaintiff.

Matter is fixed for consideration.

At this stage, ld. counsel for plaintiff moved an application under Order VI rule 17 r/w Sec.151 CPC for amendment of plaint alongwith amended plaint.

By way of present application, it is submitted that there is a typographical mistake in the date in last line of para no.4 and in the first line of para no.5 of the plaint; that the date 03.02.2022 has been wrongly typed in place of date 13.02.2022. In view of the same, para no.4 and 5 of the plaint is required to be amended.

It is further averred that the amendment of the above-said fact is very material for just conclusion of the case; no prejudice will be caused to defendant in case the amendment sought is allowed; that the nature of the suit will not be changed in any manner, in case the amendment is allowed.

I have heard ld. Counsel for the plaintiff and gone through the records.

Order VI Rule 17 CPC provides for amendment of pleadings which is reproduced as follows:-

*“Amendment of pleadings- The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just and all such amendments shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial”.*

The guiding principle of amendment is that all amendments ought to be made “for the purpose of determining the real question of controversy between the parties to any proceedings or of correcting any defect or error in any

proceeding.” All amendments of the pleadings should be allowed which are necessary for determination of the real controversies in the suit provided the proposed amendment does not alter or substitute a new cause of action on the basis of which the original lis was raised or defence taken. The proposed amendment should not cause such prejudice to the other side which cannot be compensated by cost. No amendment should be allowed which amounts to or relates in defeating a legal right accruing to the opposite party on account of lapse of time.

Coming to the facts in hand, by way of present application plaintiff wants to correct the typographical error in the date as per the documents annexed. The proposed amendment is not altering or substituting new cause of action. Further the trial has yet not started in this case. In view of the same and in the interest of justice, application in hand stands allowed subject. Amendment plaint is taken on record.

I have heard the learned counsels for the plaintiff and perused the record.

This is a suit for recovery of money under Order XXXVII CPC of Rs.10,000/- on the basis of written agreement which admittedly is in the possession of defendant. In view of the same, no case is made out under Order XXXVII CPC and the same is converted into ordinary civil suit.

Let summons for settlement of issues in ordinary suit be issued to defendant on filing of PF as well as amended plaint returnable for **18.09.2023**.

(GEETANJALI)  
ADJ-01/NE/KKD/DELHI  
22.08.2023

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