

11 MISC DJ 338-2024

SATISH CHAND SHARMA Vs. M-S JAYRCON BUILDERS
PRIVATE LIMITED

31.01.2026

Present:- Ms. Richa Sharma, Ld. Counsel for plaintiff.
Sh. Manish Gambar, Ld. Counsel for defendants
through VC.

1. An application under Order VI Rule 17 CPC is pending.
2. Arguments heard by the parties.
3. List for orders at **4 pm**.

(Rahul Bhatia)
DJ-1 (South-East), Saket Court
New Delhi/31.01.2026(sk)

At 4 pm

4. It is submitted by Ld. Counsel for plaintiff that vide this application, the plaintiff wishes to define the role of defendant no. 2 and 3 in the present dispute. Further, in the original plaint, the date of joining was wrongly mentioned by two days and the plaintiff wishes to correct the same. Apart from this, certain mathematical errors with respect to the calculation of arrears of salaries are also being made.

5. It is submitted by Ld. Counsel for plaintiff that originally the plaint was filed seeking a recovery of an amount of Rs. 7 lacs. However, the plaintiff wishes to amend the plaint to show that the plaintiff was entitled to recover an amount of Rs. 11,41,950/- and not Rs. 7 lacs. However, it is submitted that the plaintiff does not wish to change the prayer clause and still claims an amount of Rs. 7 lacs only but wishes to place before

the court the fact that the actual amount due is much higher.

6. Per contra, Ld. Counsel for defendants submitted that in case the plaintiff wishes to restrict the claim to Rs. 7 lacs only, he would not have any objection to the amendment to this aspect. However, it is submitted that averments with regard to defendant no. 2 and 3 are in response of the application under Order I Rule 10 CPC filed by the defendant no. 2 and 3 for their deletion. As only after filing of the said application, the plaintiff has filed the present application seeking to make defendant no. 2 and 3 liable based upon their personal assurances given by them which was not mentioned in the original plaint.

7. Heard. Perused.

8. Based upon the submissions of the parties, it is clear that amendments on three aspects are being sought in the present application. The first with regard to liability of defendants no. 2 and 3, second with regard to the correction of the date of appointment and third with respect to the calculation of the amount due in favour of the plaintiff.

9. With regard to the calculation of the amount, the plaintiff has sought amendment to show that an amount of Rs. 11,41,950/- was due towards the plaintiff but the plaintiff has not sought any amendment in the prayer of the plaint and has restricted his claim to Rs. 7 lacs only i.e. the amount claimed in the original plaint. Ld. Counsel for defendant has not objected to this amendment. Thus, the said amendment ought to be allowed.

10. As far as the aspect of error with respect to date of joining, the same appears to be a clerical mistake only as the difference is

of only 2 days and the same has not been objected to by Ld. Counsel for defendants as well.

11. Coming to the aspect of the liability of defendant no. 2 and 3, in the original plaint the defendants no. 2 to 4 are arrayed as directors of defendant no. 1 and are held liable because they are stated to be responsible for day to day affairs and business of defendant no. 1. Ld. Counsel for defendants has objected to this amendment as it has been sought after filing of applications under Order I Rule 10 CPC for deletion of defendants no. 2 to 4.

12. In the amendment sought, the defendants no. 2 and 3 are sought to be made liable in the present case as it is stated that at the time of his appointment, plaintiff was given personal assurances by defendant no. 2 and 3 that they will be personally liable in case defendant no. 1 fails to pay plaintiff's salary.

13. Order VI Rule 17 CPC reads as follows:-

"17. 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 made as may be necessary for the purpose of determining the real questions in controversy between the parties.

Provided that no application for amendment 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."

14. Thus, what is clear is that the amendment to pleadings may be allowed at any stage of the proceedings and the amendments which are necessary for the purpose of determining the real question in controversy are to be allowed.

15. Thus, the rule is in two parts and mandates that in case the amendment sought are necessary for determining the dispute between the parties, the said amendments have to be allowed.

16. The present case is for recovery of arrears of salary on the basis of the employment of the plaintiff with defendant no. 1. The other defendants were originally made parties on the basis of them being the directors of defendant no. 1. By way of present amendment, the plaintiff has sought to affix the liability on defendants no. 2 and 3 on the basis of their personal assurance and sought to specify the role of the two defendants in the present dispute.

17. Although the said amendment is sought only after the filing of application under Order I Rule 10 CPC and appears to be a counter blast to the said applications, however, as the defendants no. 2 to 4 have been made parties to the suit, the said amendment is necessary to determine whether any liability can be affixed on defendant no. 2 and 3. It is further noteworthy that it is averred that only defendant no. 2 and 3 gave personal assurance and no role has been ascribed to defendant no. 4 even in the amendment plaint.

18. Moreover, the suit is at initial stage and issues have yet not been framed and as such no prejudice shall be caused to the defendants in case the said amendment is allowed as the defendants would be able to rebut the allegations by filing of written statement to the amended plaint.

19. In view of the above discussion, the present application under Order VI Rule 17 CPC is allowed.

20. Amended plaint be filed within two weeks with advance copy to the opposite side.
21. Written statement to the amended plaint be filed within 30 days thereafter with advance copy to the opposite side. Replication be filed on or before the NDOH. Both the parties are also directed to file affidavit of admission denial of documents of each other.
22. List for arguments on applications under Order I Rule 10 CPC filed by defendants no. 2 to 4 on **02.04.2026**.

(Rahul Bhatia)
DJ-1 (South-East), Saket Court
New Delhi-31.01.2026(sk)