

Order below Exh.13
(Date 21/12/2023)

1. The plaintiff has filed this application under Order 6 R 17 CPC and prayer to add the Flying Squad Officer as defendant no. 2 and incorporate para no. 1(a) to 3(c) in the plaint on the basis of newly received documents and information.

The defendant submits say at Exh 19 that without any reason the plaintiff has sought the proposed amendment, which would change the nature of the suit and the cause of action. Therefore, prayed to reject the application.

2. Ld. Counsel for the plaintiff argued that prior to this suit the plaintiff had sought relief before the Consumer Forum, but on the grounds of interruption of power supply under Section 135 of the Act, his complaint was dismissed. Meanwhile, plaintiff got some new documents and information, to file amendment applications. The electricity bill issued by the defendant includes the amount for compounding offence and the electricity theft amount. According to Section 152 of the Act, if the plaintiff pays the amount for compounding offence, the very purpose of his suit will be defeated. Therefore, it is necessary to correct the suit valuation from Rs. 37,04,850/- to Rs.17,84,850/- and incorporate some pleading in the plaint. It will neither change the nature nor cause of the suit.

On the contrary, Ld. Counsel for defendant argued that the plaintiff has not disclosed what documents and information he

had received to seek amendment. No such documents produced on record. The amendment seeks without any reason cannot be allowed. This amendment will change the nature and cause of the suit.

3. In present matter, it is pleading of the plaintiff that, the digital electricity meter installed at his place of business was showing high readings, so on his complaint the Flying Squad officer visited and found the meter was faulty, so removed that meter and installed a new meter. However, in the absence of any fault or interference on part of the plaintiff, offence of theft electricity registered against him and a bill issued for theft of electricity amount and amount of compounding offence. Therefore, the plaintiff filed a suit to declare that the electricity bill dated 09.11.2022 issued by the defendant is illegal and not binding on him.

Now by reason of receipt of some new documents and information, plaintiff sought amendment to add Flying Squad Officer MaheshKumar Srirang Patil as defendant No. 2 and incorporate paragraphs 1(a) to 1(d), 2(a) 3(a) to 3(c) in the plaint. A perusal of the proposed amendment in that context shows that paragraphs 1(a) to 1(d) provide the reason for adding Flying Squad officers as defendants and the procedure for taking meter readings by the defendant. In paragraph 2(a) it is stated that even by changing the sanction from 35 H.P. to 150 H.P. by the plaintiff and installing a transformer of 200 K.W. at his own expense, the electricity was fluctuating due to defective meter and a new meter with broken seal was installed without its installation report. In Paragraphs 3(a) to 3(c) mentioned the reasons how bill of theft electricity under Section 135 is illegal. The Plaintiff has not disclosed on the basis of which documents and information he wants to seek said amendment. But the amendment sought is only in respect of the prayer in the plaint

and is based on the facts already stated in the plaint. Therefore, the nature and cause of the suit will not change. Also, the fact that the written statement has not yet been filed by the defendant will not cause any prejudice to the defendant.

4. In respect of suit valuation, prayer of the plaintiff is not about amount for compounding offense, but only for amount of theft electricity. Therefore, it needs to be corrected. However, presence of Flying Squad Officer MaheshKumar Patil is not required in the suit in pursuant of the prayer in the plaint. He is not a necessary or proper party to the suit. No relief is sought against him. Hence, passed the following order.

ORDER

1. The application is partly allowed.
2. Plaintiff is permitted to correct the valuation of the suit and incorporate Para 1(b) to 1(d), 2(a) & 3(a) to 3 (c) in the plaint within stipulated time.
3. Plaintiff to furnish amended copy of the plaint forthwith.

Sangli
Date: 21/12/2023

(D. R. Deshmukh)
Jt. Civil Judge, Sr. Dn., Sangli

CERTIFICATE

I affirm that the contents of this PDF file are same as per original.

Name of Stenographer	: Sou. S. A. Mane (Grade-II)
Name of the Court	: Shri. D. R. Deshmukh Jt. C.J.S.D., Sangli.
Date of decision	: 21/12/2023
Order signed by P.O. on	: 21/12/2023
Order uploaded on	: 22/12/2023