

13.07.2021

Order on I.A.No.IX

1. That, the defendants have filed the application under Order VI Rule 17 of Code of Civil Procedure, with a prayer to carryout the following amendment in para No.13 at 6th line in written statement.

Proposed amendment

To permit to delete the Cheque No.529585 and thereby permit to substitute 529584.

2. That, the defendant No.3 in his affidavit has contended that his father had availed the loan only for Rs.2,53,000/- and the cheque which issued in respect of the said amount as per the account statement of the plaintiff was bearing No.529584. That, the said defendant has further contended that due to oversight in their written statement at para No.13 at 6th line they have mentioned the Cheque No.as 529584 instead of 529585 and in view of the same it is very much necessary to carryout the alleged amendment and the alleged amendment neither changes the nature of the case nor causes prejudice to other side.

3. That, the plaintiff in his objection statement has refuted all contentions of the defendants and has pleaded that the alleged mistake alleged by the defendants is not a bonafide one and there is a delay in filing the present application and the alleged amendment changes the nature of the case. That, the plaintiff has further contended that the present application is not maintainable either in law or on facts and prayed for rejecting the same.

4. That, I have heard the arguments and perused the materials placed on record. That, the following points arise for My consideration and determination :-

1. Whether the defendants have made out the grounds that, the alleged amendment is necessary for determining the real question in controversy between the parties?

2. What order?

5. That, My findings on the said points are as under:-

Point No.1 :- In the AFFIRMATIVE

Point No.2 :- As per the final order for the following:-

REASONS

6. **Point No.1 :-** That, the defendants have contended that due to typographical mistake in their written statement the alleged mistake

has crept out and it is very much necessary to carryout the alleged amendment.

7. That, the primary objective for the Court to allow application for amendment of pleadings is secure the ends of the justice and prevent injustice to other side. That, the object behind amendment of pleadings is to protect the rights of the parties and not to punish them for the mistake made by them in the pleadings. That, it is well settled law that all amendments ought to be allowed if it is neither changes the nature of the case nor causes injustice to other side. That, all the amendments ought to be necessary for the purpose of determining the real questions in controversy between the parties.

8. It is pertinent to note here that, in present case the defendants have contended that due to typographical mistake in their written statement at para No.13 at 6th line they have mentioned the Cheque number as 529585 instead of 529584. It is significant to note here that, as discussed above the object behind amendment of pleadings is to protect the right of the parties and not to punish them for the mistake made by them in the pleadings. It is to be noted here that, the alleged amendment neither changes the nature of the case nor causes injustice to other side and moreover, the said amendment

helps the Court in determining the real questions in controversy between the parties. Hence, point No.1 is answered in the **AFFIRMATIVE.**

9. **Point No.2:-** That, as discussed on point No.1, I proceed to pass the following :-

ORDER

That, the application filed by the defendants under Order VI Rule 17 of Code of Civil Procedure, is hereby allowed.

That, no orders as to cost.

That, the defendants are permitted to carryout the alleged amendment and file amended written statement by 23.07.2021.

(Directly dictated to the Stenographer on Computer, typed by him, corrected by me and then pronounced in the open Court on this the 13th day of July 2021).

(Smt. Hema Pastapur)
I Addl. Senior Civil Judge and JMFC,
Raichur.