

ORDER

1. The applicant has filed I.A under Order VI, Rule 17 of the Code of Civil Procedure, 1908, to amend the plaint as stated in the application.
2. In support of the application, the applicant has filed affidavit, wherein assigned various reasons to allow the application.
3. The counsel for defendant has submitted oral objection to the present application.
4. Heard the arguments on both side and perused the records in detail.
5. Now, the point that arise for my consideration is, “whether the application filed under Order VI, Rule 17 of the C.P.C deserves to be allowed?
6. My answer to the above point is in the **Affirmative**, for the following:-

REASONS

7. The present application has been filed by the applicant seeking to amend the petition as sought therein.
8. In the present application filed by the counsel for the applicant seeking the proposed amendment, it is prayed that in paragraph No.2,10th line after Manager replace

‘Sanjeev Kumar Jha’ with ‘Sundar Rajan Ananthachari’ and in paragraph No.3, 4th line after personal loan accordingly, on replace ‘23-08-2023’ with ‘02-08-2023’.

9. In support of the above application the counsel for applicant, has filed affidavit by submitting that, the opponent-defendant has borrowed the loan on 23.08.2023 from the Bank. But by over sight his name was replaced with the then Manager Sri. Sundar Rajan Ananthachari who was presently not holding any position in the branch. And also because of the typographical error the date of borrowing also mentioned as 02-08-2023 instead of 23-08-2023. Further submitting that, the typographical errors are of bonafide reason. The proposed amendment will not alter or change the nature of the suit and it will not lead to a new case. If the amendment is not allowed, he will be put to great hardship and inconvenience and it may lead to multiplicity of proceedings. If the amendment is allowed, no injustice or hardship will be caused to the defendant. Therefore, it is absolutely necessary to amend his plaint. Hence, prayed to insert the proposed amendment.
10. Having regard to the rival contentions urged by both parties, the first aspect that requires to be seen is the provisions of Order VI, Rule 17 of the Code of Civil Procedure, 1908, which reads as under:-

“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.”

- 11.** The present application has been moved at the earlier stage. Now, looking at the facts and circumstances of the case, what is required to be seen is whether the proposed amendments are necessary for determining the real question in controversy between the parties. It would still be incumbent upon the plaintiff to make good on their case and moreover, the respondents would still have the right to file their additional objections and take such contentions as may be available to them in law. The purpose of amendment is to see that multiplicity of proceedings is avoided. In this regard, it would be pertinent to note what the **Hon’ble Apex Court** has said in the case of **Rajesh Kumar Aggarwal -V/s.- K.K.Modi**, reported in **(2006) 4 SCC 385:-**

“15. The object of the rule is that the courts should try the merits of the case that come before them and should, consequently, allow all amendments

that may be necessary for determining the real question in controversy between the parties provided it does not cause injustice or prejudice to the other side.

16. Order 6 Rule 17 consists of two parts. Whereas the first part is discretionary (may) and leaves it to the court to order amendment of pleading. The second part is imperative (shall) and enjoins the court to allow all amendments which are necessary for the purpose of determining the real question in controversy between the parties.

17. In our view, since the cause of action arose during the pendency of the suit, proposed amendment ought to have been granted because the basic structure of the suit has not changed and that there was merely change in the nature of relief claimed. We fail to understand if it is permissible for the appellants to file an independent suit, why the same relief which could be prayed for in the new suit cannot be permitted to be incorporated in the pending suit.

18. As discussed above, the real controversy test is the basic or cardinal test and it is the primary duty of the court to decide whether such an amendment is necessary to decide the real dispute between the parties. If it is, the amendment will be allowed; if it is not, the amendment will be refused. On

the contrary, the learned Judges of the High Court without deciding whether such an amendment is necessary have expressed certain opinions and entered into a discussion on merits of the amendment. In cases like this, the court should also take notice of subsequent events in order to shorten the litigation, to preserve and safeguard the rights of both parties and to subserve the ends of justice. It is settled by a catena of decisions of this Court that the rule of amendment is essentially a rule of justice, equity and good conscience and the power of amendment should be exercised in the larger interest of doing full and complete justice to the parties before the court.

19. While considering whether an application for amendment should or should not be allowed, the court should not go into the correctness or falsity of the case in the amendment. Likewise, it should not record a finding on the merits of the amendment and the merits of the amendment sought to be incorporated by way of amendment are not to be adjudged at the stage of allowing the prayer for amendment. This cardinal principle has not been followed by the High Court in the instant case.”

12. The burden of proving the proposed amendments would still be on the applicant since the Hon’ble Apex Court has categorically held that, the merit of the amendment cannot

be gone into at the stage of deciding the application for amendment and further delay in seeking amendment is also not a ground to reject the same. In order to avoid the multiplicity of proceeding, the application deserves to be allowed. Hence, in the light of the above discussion, the proposed amendments are just and necessary to adjudicate the controversy between the parties. Therefore, I answer the above Point in the **Affirmative**. Accordingly, I proceed to pass the following:-

ORDER

The I.A. filed by the counsel for the applicant under Order VI, Rule 17 of the Code of Civil Procedure, 1908, is hereby allowed.

(Smt. Deepa.K.R)
Addl. Senior Civil Judge
and J.M.F.C, Sagara.

Applicant is directed to carry out the amendment and to furnish amended plaint returnable by 18.08.2026.

(Smt. Deepa.K.R)
Addl. Senior Civil Judge
and J.M.F.C, Sagara.