

:- ORDER ON I.A. No. :-

The present petition is filed by the defendant U/o 6 Rule 17 R/w sec. 151 of Code of Civil Procedure seeking relief of amendment of written statement filed by his.

It is stated that in the petition that the plaintiff has kept him in dark regarding previous transaction and previous litigation when he was minor. The defendant came to know about previous litigation after obtaining the documents and enquiry with villagers. The facts narrated as shown in the proposed amendment to the written statement were not knowing by him at the time filing of WS. It is stated that the proposed amendment is relevant and necessary to adjudicate matter is dispute. Hence, prayed to allow the IA No. as sought for.

3. Per contra learned counsel for the plaintiff filed objections to IA No. denying the entire allegations made by the defendant in IA. It is stated that the defendant has not shown the proper reasons for amendment of written statement. It is stated that the proposed amendment is new defence of the defendant it change the nature of the defence what he had already taken in his written statement, now the case is posted for plaintiff evidence. Hence, the learned counsel for the

plaintiff requested this Court to dismiss the present petition.

4. Heard both sides on IA.

5. The following points that arise for my consideration are as under:-

1. Whether the defendant proves sufficient grounds to allow the I.A. filed Under Order 6 Rule 17 of Code of Civil Procedure, 1908?

2. What order ?

6. My finding on the above point No.1 is in affirmative and point NO.2 is as per final order:

:- R E A S O N S :-

7. **Point No.1 :** A perusal of the facts narrated as shown in the proposed amendment to the written statement make it clear that the defendant intendeds to amend the WS with regard to previous litigation in O.S.No.505/2013 pending on the file of this court. Thus, this court opined that by permitting the defendant to amend the WS the nature of the suit nor defence of the defendant would be changed.

8. 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. From a bare perusal of Order 6 Rule 17 of the Code of Civil Procedure, it is clear that the court is conferred with power, at any stage of the proceedings, to allow alteration and amendments of the pleadings if it is of the view that such amendments may be necessary for determining the real question in controversy between the parties. The proviso to Order 6 Rule 17 of the Code, however, provides that no application for amendment shall be allowed after the trial has commenced unless the court comes to a conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial. The courts should be liberal in granting the prayer for amendment of pleadings unless serious injustice or irreparable loss is caused to the other side or on the ground that the prayer for amendment was not a bonafide one.

Such being the settled law, I must hold that in the case of amendment of a written statement, the courts are more liberal in allowing an amendment than that of a plaint. Hence point No.1 is answered in affirmative.

9. **Point No.2 :-** For the discussions made above following

: ORDER :

The I.A filed by the defendant U/o 6 Rule 17 R/w sec. 151 of Code of Civil Procedure, 1908 is hereby allowed.

The defendant is permitted to amend the written statement as sought for in present petition.

For amendment.

(Typed to my dictation by steno directly on computer on 15th day of September 2016)

((Lakshmikanth Janakiram Miskin))
Civil Judge & JMFC. Indi.