

IN THE COURT OF MUNSIFF, MUVATTUPUZHA

Present : Smt. Niveditha M.A, Munsiff.

Saturday, the 2nd day of March, 2024/12th Phalguna, 1945.

I.A No.4/2023 and I.A No.6/2023 in O.S No.281/2018

I.A No.4/2023

Petitioner/Defendant:

M/s Nagarajalakam Communications.

By Advocate : George P.P

Respondent/Plaintiff:

Bank of Baroda

By Advocates : Rajeevan B and Jijo Joseph

I.A No.6/2023

Petitioner/Defendant:

M/s Nagarajalakam Communications, Muvattupuzha.

By Advocate : George P.P

Respondent/Plaintiff:

Bank of Baroda

By Advocates : Rajeevan B and Jijo Joseph

These petitions coming on for hearing on 02.03.2024 and the court on the same day passed the following:

COMMON ORDER

The above petitions are filed under Order 6, Rule 17, and under Order 1, Rule 10 .

2. The petition averments in brief are as follows:- The petitioner is the defendant in the above suit. IA 4/23 is filed for amendment to add that the amount of the loan w**I.A No.4/2023 and I.A No.6/2023 in O.S No.281/2018** as expensed by the then general manager of the defendant company, Sri. Gijeesh P.B. and the impleading petition is to implead the same person in the party array. The averment of the petitioner is that it is necessary to make the said amendment and the said person being the necessary party has to be impleaded.

3. The respondent filed objection with the following contentions:- The petitions are not maintainable. Hence the trial has commenced the petition is barred under Order 6, Rule 17 provision and the proposed amendment is not necessary for proper adjudication. The said person is not a necessary party. If the petitions are allowed it will cause irreparable injury to the respondent/plaintiff. Hence, prays for dismissal of the above petitions.

4. The following points arise for consideration:

1. Whether the amendment sought is to be allowed?

2. Order and costs?

5. Heard both sides.

6. POINT NO.1: - The petitioner submitted that it is necessary to make the amendment and to implead the person being a necessary party. The respondent submitted that the written statement was filed in the year 2018 and there is no mention of such matters in the written statement. The evidence was closed and hence there is bar under Order 6 Rule 3 of CPC. The person sought to be impleaded is not a necessary party. The petitions are only a delay tactic.

7. It is seen that the plaintiffs evidence was closed and even after giving sufficient opportunity to the defendant to adduce evidence, the defendant was not ready to adduce evidence and hence the evidence of defendant was closed. Thereafter petition was filed to reopen the evidence, which was allowed on costs. Then the defendant has come up with these petitions. It is settled by catena of decisions 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. But here in the written statement, there is no whisper regarding the matter sought to be amended or relating to the person to be impleaded. So, it is to be understood that the defendant has cooked up a new story to delay the proceedings which cannot be entertained. The petitions being highly belated lack any bonafide are only to be dismissed.

8. POINT NO.2:- In the light of the above observation the petitions stands dismissed

In the result, both the petitions are dismissed. No order as to costs.

(Typed, corrected and pronounced by me in the open court on this the 2nd day of March, 2024)

Sd/-
Niveditha M.A,
Munsiff.

Appendix : Nil

Id/-
Munsiff.

SAA.
Comp.

//True copy//

Munsiff.

I.A No.4/2023 and I.A No.6/2023

in O.S No.281/2018

Common Order dated : 02.03.2024