

IN THE COURT OF JUDGE CO-OPERATIVE COURT SOLAPUR

Co-op. Case No-1184/2009

Hinglajmata Urban Co-op. Credit Society Ltd

:- Disputant

Vs

Vasantdada Shetkari Sah. Sakhar Karkhana Ltd Sangli. :- Opponents

Order Below Exh 23.

1. Read the application and say Exh 37 filed by opponent Karkhana. Heard learned Advocate Shri V.C.Dargad for disputant society and learned Advocate Shri B.P.Shinde for opponent karkhana. Perused the record.

2. By this application the disputant society seeks to amend the dispute to incorporate claim in relation to current account dues and to correct certain typographical mistakes occurred in the dispute while giving description of the society etc. It is submitted that the amendment proposed is formal in nature. If allowed will not change the nature of dispute in any manner. The amendment is necessary to be carried out for proper adjudication of the dispute on merits. The disputant thus prayed for allowing the application.

3. The opponent bank has contended that the amendment sought is time barred. The earlier application filed for similar prayer had been not pressed by disputant society and therefore after waiver of the said prayer this application can't be entertained. The opponent bank has went in to liquidation and hence the dispute itself has become infructuous. The application is highly belated. The opponent bank thus prayed for rejecting the application with cost.

4. The learned Advocate for opponent bank Shri Shinde submitted that the

claim in relation to current account amount was not made willfully and therefore said claim now can't be permitted to be made since the claim waived can not be permitted to be brought forward by seeking amendment. So also the learned Advocate submitted that this dispute though has been filed in the year 2009, this application is filed in the year 2016 and this itself proves that the disputant society is not diligent in prosecuting the matter. The learned Advocate therefore submitted that the application be rejected with heavy cost.

5. The learned Advocate for disputant society Shri Dargad on the contrary submitted that in the demand notice issued before filing of the dispute the current account deposits were demanded but inadvertently same has been remained to be incorporated in the present dispute. The said mistake is of the Advocate and for that the disputant can't suffer. The amendment sought is technical in nature, it will not change the nature of dispute. No new case is sought to be included by seeking amendment. Therefore the ld Advocate has lastly submitted for allowing the application.

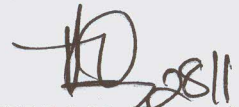
6. At the very outset I may mention here that the amendment sought by disputant society on the face seems to be too technical and corrective in nature. Excepting to incorporate the claim in relation to current account deposits and to ask for correction of clerical errors, no other claim is sought to be incorporated by disputant society by way of amendment. Whether the disputant society is entitled to recover the said current account deposit amount or not will be decided at the time of final hearing. At this juncture it is not necessary to go into those details, if done so would amount to judging the merits of the amendment. It is well settled legal position that the merits of the amendment need not be examined at the stage of hearing application for amendment. In my opinion the proposed amendment if allowed, no prejudice would be suffered by opponent bank. For proper adjudication of the dispute the

said amendment is necessary to be allowed. The amendment will not change the nature of dispute in any manner. The application is therefore fit to be allowed. Therefore with this discussion i proceed to pass the following order,

Order

1. Application for amendment stands allowed.
2. The disputant society is hereby granted permission to carry out the amendment to dispute on or before next date and to place on record the amended dispute & copies thereof for other side. The disputant society is directed to deposit balance court fee on the amended claim amount, calculated as per applicable rules, on or before next date.
3. No order as to cost.

Date :- 28/01/2022


(U.M.Kulkarni)

Judge

Co-op. Court Solapur