

ORDER PASSED BELOW EXH. NO. 79

1. This application is filed by plaintiff under Section 153 of the Civil Procedure seeking permission to carry out amendment in affidavit of examination in chief filed at Exh. 78.

2. Plaintiff has sought permission to carry out amendment in plaint in respect of amount i.e. he wants to say that he paid Rs.17,31,000/- to defendants. However, in plaint it is mentioned that he has paid Rs.16,81,000/-. Accordingly, permission is granted to plaintiff to amend plaint. In view of amendment in plaint, plaintiff wants to make amendment in affidavit of examination-in-chief. Hence, this application.

3. Defendant filed his say and opposed to allow this application contending that reason stated for amendment is not proper and permission can not be granted as prayed by plaintiff.

4. Heard both sides and gone through the record. It is true that Order 6 Rule 17 of Civil Procedure Code is applicable to pleadings only and by using said provision permission can not be granted to amend the affidavit.

However, plaintiff has prayed to give permission to amend in examination in chief by using discretionary power given to Court U/s. 153 of the Civil Procedure Code. Considering nature of amendment sought by plaintiff and reason stated for amendment, it appears that same is nothing but typographical error and therefore, in the larger interest of justice, permission needs to be granted to plaintiff as prayed. Hence, following order.

ORDER

- (1) Application is allowed .
- (2) Permission is granted to plaintiff to carry out amendment in the affidavit of examination-in-chief as prayed.

Jaysingpur.
Dt.: 12.09.2018.

Sd/-
(K.G. Sawant)
Civil Judge Senior Division,
Jaysingpur.

