

MHLA110009222018



Order below Exh.52 in RCS No.347/2016

Ayodhya & Or. Vs. Suchita & Or.

1. This is an application filed by plaintiffs under Order VI Rule 17 C.P.C. for amendment of pleadings by which the plaintiffs wants to incorporate para No.10-A and 10-B after existing para No.10 and to amend/add prayer clause B-1 and B-2 after existing prayer clause-B in the plaint, on the grounds stated in the application. Defendant No.1 has filed her say and raised strong objections. The say filed by defendant No.1 came to be adopted by defendant No.2 vide pursis at **Exh.56**. Perused application and say. Heard both the sides at length. Both of them have submitted in the line of their application and say respectively. Record shows that plaintiffs have filed this suit for perpetual and mandatory injunction. The suit is proceeding without WS of defendant No.1. Defendant No.2 has filed its WS at **Exh.32** and in para No.19 it is contended that it has already paid the monetary benefits and statutory payment to defendant No.1, who was nominee of its deceased employee Sachin Patil. Therefore, considering this aspect plaintiffs wants to claim/amend their relief of mandatory injunction. Record further shows that defendant No.2 has filed its WS on 10/08/2018. It was obligatory on the part of plaintiffs to move this application at the earliest possible opportunity. However, plaintiffs have moved this application on 12/08/2022 i.e. approximately after four years of coming to know the fact that defendant No.2 has disbursed the amount to defendant No.1. At this juncture, it is necessary to consider the fact that a considerable period of approximately two years was under Covid-19 pandemic. Still, there is a delay of approximately two years in moving this application and for that purpose it is necessary to

impose costs upon plaintiffs. Be that as it may. Considering the nature of suit, grounds stated in the application and to avoid multiplicity of proceedings, in my opinion, it is necessary to permit plaintiffs to carry out proposed amendment in the plaint as sought. Hence, I pass following order:-

ORDER

1. Application is allowed subject to costs of Rs.500/- each to be payable to both the defendants.
2. Plaintiffs are hereby permitted to incorporate para No.10-A and 10-B after existing para No.10 and to amend/add prayer clause B-1 and B-2 after existing prayer clause B in the plaint.
3. Plaintiffs shall supply copy of amended plaint to the Court and to the defendants at the earliest.
4. Defendant No.2 is at liberty to file its additional WS, if any.
5. Plaintiffs shall pay requisite Court fee in respect of their additional prayer made by way of this amendment.

Order dictated and pronounced in open court.

Date : 05/01/2023

(Ashish B. Marlecha)
Civil Judge (Sr.Dn.),
Nilanga, Dist. Latur.