

Order below Exh.41 in R.C.S. No.05/2024.
Maheboob Vs. Executive Engineer (PWD) and others.
(Order passed on 6th August, 2024.)
CNR No.MHLA170000442024

Third party applicants No.1 to 6 have filed this application under order VI Rule 17 of Civil Procedure Code for carrying out amendment in the application filed by them below Exh.25. They further submit that, they have filed said application below Exh.25 as per Order 1 rule 18(A) of the Civil Procedure Code on 16.04.2024 and it is subjudiced before the Court. It is mentioned by third party applicants No.1 to 6 that, inadvertantly they failed to mention the word “coloum of defendnats” in the last line of page No.1 of the application (Exh.25) and in the third line of the prayer of the application. According to Order 1 Rule 8 (A) of the Civil Procedure Code, defendants can be included in the coloumn of plaintiffs or defendnats. Therefore, according to the prayer of third party applicants No.1 to 6 their names need to be added as defendnats. Carrying out amendment in the application below Exh.25 does not change the nature of the application. Hence, it is prayed by third party applicants No.1 to 6 to allow their application and grant them permission to carry out amendment as prayed by them.

2. Persued the say of plaintiff. He has objected the application of third party applicants on the grounds that, the application filed by third party applicants is not tenable in the eyes of law. They have no *locus standi* to file such application. third party applicants cannot amend application filed by them at Exh.25, as per provisions under Order VI Rule 17 of the Civil Procedure Code as the application (Exh.25) is not the written statement. It is further

submitted by plaintiff that, if there is any technical mistake in the application, third party applicants shall withdraw the application at Exh.25 and file new application by removing the short claiming in this application. Therefore, there is no provision to amend the said application (Exh.25) in the Civil Procedure Code. Hence, plaintiffs prayed to reject the application of third party applicants No.1 to 6.

3. Heard learned counsel for third party applicants No.1 to 6. He argued that, in view of Order I Rule 8(A) the Court has power to permit a person or body of persons to present opinion to take part in proceedings if such person or body of persons present any question of law which is directly and substantially in issue in the suit and that is necessary in the interest to allow that person or body of persons to present his or its opinion filed by them as per provisions under Order VI Rule 17 of the Civil Procedure Code, the Court may permit the amendment sought by third party applicants No.1 to 6 in their application below Exh.25. According to Order VI Rule 17 of the Civil Procedure Code any party who desires to say out amendment may file application. Here, third party applicants No.1 to 6 have made application to add them as party to the suit. Though, it inadvertently does not mention in their application that, they be add as defendants in the suit. Applicants No.1 to 6 are appearing as a third party applicants in the suit. Therefore, they can be treated as a party to the suit. Not pressing or withdrawing the application and filling the application again as per Order I Rule 10 will consume the time of Court. On the contrary, allowing this application as per provisions of Order VI Rule 17 of the Civil Procedure Code considering the third party applicants to the party to the suit though their application below Exh.25 is yet to be

decided. It is further argued the learned counsel for third party applicants that, the Court can alternatively allow the application as per provisions under section 151 of the Civil Procedure Code.

4. The learned counsel for plaintiff argued that, there is no such provision in the Civil Procedure Code to carry out amendment in the application filed by third party, as they are not party to the proceedings. It is necessary for third party applicants to withdraw their application and file new application as per under Order I Rule 10 of the Civil Procedure Code for adding their names as defendants. third party applicants No.1 to 6 have no *locus standi* to file such application under Order VI Rule 17 as they are not added as plaintiff or defendants in the present suit. Merely they are applicants. The application below Exh.25 filed by third party applicants No.1 to 6 is yet to be decided. This application filed by third party applicants No.1 to 6 is not written statement which can be amended as per provisions under Order VI Rule 17 of the Civil Procedure Code. Thus the learned counsel for plaintiff prayed to reject the application.

5. Perused the record. It reveals that, third party applicants No.1 to 6 have filed application below Exh.25 for adding them as a party to the suit. However, they have not mentioned that, their names be added in column of defendants. It is argued by learned counsel for third party applicants that, they have filed application as per provisions of Order I Rule 8(A) of the Civil Procedure Code. According to Order I Rule 8(A) of the Civil Procedure Code it is power of Court to permit a person or body of persons to present opinion to take part in the proceedings while trying a suit. However, the application filed by third party applicants No.1 to 6 below

Exh.25 can be considered. The application filed by third party applicants No.1 to 6 below Exh.25 can be consider. under Order I rule 8(A) of the Civil Procedure Code. However, carrying out amendment in the said application as per Order VI rule 17 of the Civil Procedure Code can be considered on the grounds that, they have filed the application below Exh.25 in the capacity of third party applicants. The question to be decide in the application filed by applicants below Exh.25 whether their names shall be added as defendants or otherwise. Now the question before the Court is that, whether the amendment sought by third party applicants to carry out proposed amendment in last line of page No.1 of application (Exh.25) by adding words “column of defendants” and in the third line of prayer.

6. Considering the fact that third party applicants No.1 to 6 are admittedly party to the suit as a third party. The provisions Under Order VI Rule 17 of the Civil Procedure Code are applicable to the present application of third party applicants. Allowing the application of third party applicants will not cause any prejudice to the plaintiff. On the contrary it will help the parties to the suit for just decision of the suit. Considering the fact that it is the discretion of the Court to allow or reject the application of third party applicants. Furthermore, considering the discretionary powers of Court under section 151 of the Civil Procedure Code. Application of third party applicants No.1 to 6 needs to be allowed. Therefore, I pass following order:-

ORDER

1. The application is allowed.
2. Third party applicants No.1 to 6 are granted permission to carry out amendment in the last line of page No.1 of their application (Exh.25) and add the words “column of defendants” and further allow them to amend in the third line of the prayer and add words “column of defendants” in it.
3. Third party applicants shall carry out the amendment immediately without any delay.
4. No order as to cost.

Date:-06.08.2024.
Place:- Ausa.

(P. I. Mokashi)
Civil Judge, Senior Division,
Ausa.