

**Regular Civil Suit No.25/2014
Gulab & other Vs. Usha & another**

ORDER BELOW EXH.No. 51
(Passed on 07th of April, 2018)

The defendants moved this application to amend the pleading under Order 6 Rule 17 of C.P.C.

2. According to the defendants, the plaint was amended and the plaintiff inserted the averments in respect of the agreement dated 21.05.2014. It is alleged that the plaintiffs have made false statement regarding the execution of the said agreement and the defendants intend to deny the said allegation. Therefore, the defendants have moved this application to amend the written statement in this regard.

3. The learned advocate for the plaintiffs, Mr. Bante opposed the application on the ground that the the defendants have moved this application at the belated stage. Hence, this application is not tenable.

4. Having perused the application and the record, I heard the Learned advocates for the both sides. In view of the rival pleadings and the documents placed on record, following points are formulated for my determination and I record my findings thereon with reasons as follows :

Sr. No.	<u>POINTS</u>	<u>FINDINGS</u>
1	Whether the proposed amendment is justified ?	Yes
2	What order ?	The application is allowed as per final order.

REASONS**As to point No.1 :**

5. Having heard the Learned advocates for the both side, I perused the record. It is pertinent to note here that the plaintiffs have inserted the pleadings which have direct nexus with the execution of the agreement in dispute. In such circumstances, the defendants are also required to be given a chance of being heard for a fair trial. Moreover, no prejudice would be caused to the plaintiffs. In short, in order to bring the real facts on record, the present application in hand needs to be allowed. Though the present application came to be filed after laps of one year, the delay can be compensated by imposing costs.

6. Having regard to the nature of the suit and the delay in filing this application, I proceed to pass the following order.

ORDER

- (i) The application (Exh.No.51) is hereby allowed subject to costs of Rs. 500/- (Rs. Five hundred only).
- (ii) The defendants shall carryout the necessary amendment within the stipulated period and shall submit the amended copy of the written statement.

Ramtek
Date : 07.04.2018

(Sujitkumar C.Taide)
Civil Judge, Jr.Dn., Ramtek.

CERTIFICATE

I affirm that the contents of this P.D.F. file Order are same word to word as per original Order.

Name of Stenographer

:- G. S. Dongardive

Regular Civil Suit No.44/2009
Subhash & other Vs. Nisha and other

ORDER BELOW EXH.No.145
(Passed on 13th of July, 2017)

By way of this application, the defendant No. 1 to 4 have sought the permission to cross-examine the plaintiff No.1 on the ground that on 24.03.2017 when the case was fixed for cross-examination of the said witness, the advocate for the defendant No. 1 to 4 could not attend the Court due to his important domestic work. So also, the defendant No. 1 to 4 were unable to appear before the Court due to their illness. Hence, they have moved this application.

2. The Learned advocate for the plaintiffs, Shri Fule opposed the application on the ground that the defendant No. 1 to 4 are trying to prolong the matter on the baseless grounds. Hence, he prayed to reject the application with costs.

3. Having heard the Learned advocates for the both sides, I perused the record. It transpires that the Learned advocate for the defendants had to attend the Tervi of his close relative. Thus the reason for his absence appears to be bonafide. This application is supported by affidavit and therefore, the facts mentioned in this application can be taken into consideration. In such circumstances, it is probable that the defendants might have suffered from illness. Moreover, the defendants have filed this application without any delay. Thus their bonafide intention to conduct the case is reflected. In short, the reasons for not conducting the case on the fixed date are bonafide. Thus in order to have a fair trial, the defendant No. 1 to 4 deserves to have a chance of being heard. In the result, I pass the following order.

Order

- (i) The application is allowed.
- (ii) The defendant No.1 to 4 are hereby allowed to cross-examine the plaintiff No.1.

Ramtek
Date : 13.07.2017

(Sujitkumar C.Taide)
Civil Judge, Jr.Dn., Ramtek.

