

R.C. S. No. 24/2020

**Reliance Industries Ltd. Vs. Lokshasan
Aandolan Sangharsh Samiti and ors.**

CNR No. MHRG090001192020

ORDER BELOW EXH. 77

Present application is filed by the plaintiff for amendment of the plaint under Order 6 Rule 17 of the Code of Civil Procedure. It is submitted that present suit is filed for declaration and permanent injunction based upon the publication in the news paper "Dainik Sagar" dtd.6th February 2020. Defendant No.2 and 3 have appeared but they have not filed say to application (Exh.5) and written statement.

2. On 12.11.2020 plaintiff also filed another application mentioning that defendants' threats to carry out agitation is in continuation of the suit. He has filed subsequent application for temporary injunction and prayed for interim relief due to new threat given by defendants by the letter dtd.11.11.2020. The Court was pleased to issue notice to defendants. In response to the notice defendants appeared before the Joint Civil Judge Junior Division Court.

3. During pendency of the present suit defendants are repeatedly giving threats to the plaintiff to conduct agitation through their supporters and family members. Hence, the plaintiff has filed application for temporary injunction Exh.32 and Exh.43 alongwith proofs and affidavit. Defendants have appeared on 23.11.2020 and filed their say and another application under Order 7 Rule 11. On which, arguments are

advanced by the parties and on 2.12.2020 matter is posted for order. Now the matter is before this Court and fresh arguments on application under Order 7 Rule 11 will be required.

4. He has mentioned all the facts in both the applications Exh.32 and 43 which are sought to be brought on record by the proposed amendment. He further submitted that the proposed amendment are the incidents and manner of threat of defendants. The averments which are sought to be brought on record by the proposed amendment are comprehensive and necessary to adjudicate the matter finally to determine real question in controversy between the parties. Present application is filed before the settlement of issues and right to answer the same by way of additional written statement will be available to defendants. The proposed amendment will not affect adversely on the defense of defendants and no injury will cause to them. Hence, on these grounds, he has prayed to allow the application.

5. The application is opposed by defendants by filing their say at Exh.80. They submitted that they have put their defence alongwith application under Order 7 Rule 11 and plaintiff rushed to ask for amendment. On compliance thereof this Court has heard both sides on the application under Order 7 Rule 11 and the matter is posted for order. Then the plaintiff moved present application for adding the contents in the plaint. Since, the amendment attracts liberal view, the plaintiff is

seeking amendment as per whims. Considering the proposed amendment, plaintiff want to save from enforcement of bar under section 60 of special enactment. The proposed amendment is not warranted. If it is allowed, it will substantially change the nature of the suit and will cause prejudice to their defence. Hence, on these grounds, they have prayed to reject the application.

6. Heard Ld. Advocates for respective parties. Present suit is filed by the plaintiff for declaration and perpetual injunction. It is the case of the plaintiff that defendants are making illegal demands for the employment to the so called project affected persons and retired employees. They are further demanding to fix the retirement age as 60 years and other demands pertaining to contract labours. In this connection, they have published publication in the news paper Daily Sagar Raigad edition stating that aggressive meeting will be conducted on 14.2.2020 at the entrance of Kuhire gate of the plaintiff company. Defendants have also put hoardings in this regard. Hence, the plaintiff has prayed for declaration that the said publication be declared illegal and bad in law. He has further prayed for perpetual injunction to restrain defendants or their supporters from doing any act mentioned in the news paper publication published on 6.2.2020 in Daily Sagar, Raigad edition within plaintiffs premises and within the 500 meters. of the boundary wall and from all it's gates.

7. Record reveals that plaintiff has sought be relief of temporary injunction by filing application below Exh.5. On which, notice to defendants was issued. On 12.2.2020 defendant No.3 had appeared and sought time to file say and W.S. Which was granted. However, on that day prayer to grant injunction was rejected at that stage. Thereafter, on 8.9.2020 plaintiff had moved another application below (Exh. 26) seeking prohibitory injunction against defendants. On the said application, notice to defendants was issued. Thereafter, on 12.11.2020 plaintiff again moved an application below (Exh.32) seeking temporary injunction against defendants or their supporters from carrying any agitation or illegal act on the basis of letter dtd.11.11.2020 filed before Nagothane police station in furtherance of news publication published on 6.2.2020 in Daily Sagar. Notice to defendants on this application was issued. Accordingly, on 23.11.2020 defendants appeared and sought time to file their say. On the same day, plaintiff has again moved an application (Exh. 43) seeking temporary injunction on the basis of hand bill received to him on 21.11.2020. Defendants have filed their say (Exh.50) on applications below Exh.5, 32 and 43.

8. By the proposed amendment, the plaintiff wants to bring all the facts as mentioned in applications Exh.32 and Exh.43 on record. Perusing the contents of the proposed amendment, they appear to be the incidents which have

occurred after filing of the suit.

9. Ld. Advocate for defendants has argued that by the proposed amendment, plaintiff wants to withdraw the admission and to go away from section 60 of the special enactment. In this context, perusing the proposed amendment, plaintiff has prayed to amend the plaint by adding the averments in para 5, 6, 8, 12, 14 and prayer in para 19 in respect of subsequent events in it. He has nowhere prayed to delete or substitute any of the averments in the plaint. Therefore, the question of withdrawal of an admission does not arise.

10. Admittedly, present suit is at preliminary stage and issues are yet to be framed. Therefore, the proviso as mentioned in Order 6 Rule 17 of the Code of the Civil Procedure is not attracted to be present application. The proposed amendment neither cause any prejudice to the rights of defendants nor it changes the nature of the suit. Hence, considering all these facts, I find that proposed amendment deserves to be allowed in the interest of justice. It will help the Court for complete and effective adjudication of the controversy between the parties. Hence, for these reasons, following order is passed.

Order

1. Application Exh.77 is allowed.
2. Plaintiff is permitted to amend the plaint as mentioned in

this application.

- 3 Plaintiff is directed amend the plaint within 14 days from today.
- 4 He is further directed to submit the copy of amended plaint on record and supply the same to defendants.

Date : 09/12/2020

S. D. Kamalakar
Civil Judge (J. D.),
Roha, Dist. Raigad.