

ORDER BELOW EXH. 95 IN RCS NO. 41/2021

Defendant nos.1 has filed present application to sought amendment in their written statement. It is contended that, inadvertently certain defenses are left over to be mentioned in written statement. Hence, the amendment in w.s. of defendant no. 1 is necessary to be done before conducting the cross examination of plaintiff. It is contended that the portion which defendant which sough to be inserted vide amendment is explanatory in nature. Hence, nature of suit may not get changed by the same. Plaintiff has strongly objected the application and contended that defendant has not given any reason for their application at delayed stage. The application is made merely to delay the trial. For all these reasons, they prayed for rejection of the application.

2] Heard both sides. Perused record of the suit. The plaintiff has instituted present suit on 30-09-2021 for recovery of money. Defendant nos.1 has resisted the suit by filing their written statement at Exh.65. issues were framed on 16-09-2023 vide Exh. 67. The trial is commenced. Defendants with present application wanted to amend their written statement. By proposed amendment they want to insert some explanatory content.

3] Order VI Rule 17 of the Code of Civil Procedure says that, amendment of written statement stands at a different footing from plaint. Amendment to clarify certain points in the original written statement is permissible. Here, the proposed amendment does not change nature of original written statement. It also does not made out any new case. It is always permissible that, defendants are to be

allowed to raise defence as much as they can. However, certainly, the facts were not new to defendant and he could have taken care of the same prior wards also. As such, when the suit is pending for cross examination of plaintiff and he is present today, application may not be allowed without compensating the other side equally. Therefore, I am inclined to grant present application with condition to direct defendant to pay costs. Hence, amendment has to be allowed by imposing cost on defendant nos.1. Resultantly, the order.

ORDER

01. Application stands allowed subject to costs of Rs.800/- to be paid by defendant no.1 to plaintiff for delay caused.
02. Defendant nos.1 to carry out amendment and supply copies of written statement on or before next date only. **In case of default to carry out amendment and file amended copy of next date, the order would stand vacated.**

Deorukh
Date : 13-02-2025

(Shruti H. Patil)
Jt. Civil Judge J. D. Deorukh