

Kopargaoan peoples co-operative Bank

Vs

~~M/s Sanveda cotton industries, etc~~

M/s Akshay Agro industries, etc. *dy*

Order Below Exh. 46

10/09/26

This is an application filed by disputant society under section 94 of Maharashtra cooperative society Act, and Order VI Rule 17 of Civil procedure code.

Perused the application and say filed at Exh-53. It is contention of Disputant that, yet suit is not started. After filing of suit disputant society got knowledge about some information and activities of opponent No.3 relating to this suit. Therefore disputant want to amend the plaint. He further contents that after last line of para 15, they wanted to add information regarding the transaction in between the opponent No.1, 2 and 3. Disputant got information about transaction done by opponent No.3 time to time. Opponent No.3 taken actual benefits of money which is on the account of opponent No.1 and 2. Again he has withdrawn the amount from the account of opponent No.1 and 2. It appears from the record huge amount is transferred in the account of opponent No.2 in the account of opponent No.3. It is further contention of Disputant that, opponent No.3 got huge amount by illegal way. He further contents that, opponents involved in various companies and did illegal work, and many things which are mentioned in application about to activities of Opponent No 3. Opponent No1,2and 3 collectively did all illegal activities therefore disputant want to bring fact on the record. Which strengthen the case of disputant. Therefore, prayed to allow the amendment application.

On the other hand, opponent No.4 and 5 resisted the present application contending that, present application is wholly misconceived, mala fide. The suit is pending for filing evidence of plaintiff. Though plaintiff failed to filed it on record. Present application is not a coincidence but a calculated attempt to divert this Hon'ble court's attention and to manufacture a fresh cause to keep the suit alive.

He further contents that, it is well settled law that an amendment application filed at such a belated stage, is liable to be rejected. He further contents that, no application for amendment shall be allowed after the commencement of trial unless the court comes to the conclusion that, in spite of due diligence, the party could not have raised the matter before the commencement of the trail. The disputant has not even pleaded, much less demonstrated, due diligence in the present application. He further contents that, in this case disputant bank, having failed to lead evidence for

more than one a year. The introduction of new document at this stage would necessarily require reopening of pleadings, would entitle the opponent to file additional written statement and would cause serious prejudice to the opponent. Lastly, he prayed that, In the alternative, and without prejudice to the above, in the event this Hon'ble court is inclined to allow the said application, impose heavy costs of Rs.2,00,000/.

Opponents No 1 to 3 filed say at Exh-50. Disputant bank unnecessarily added as an opponent No.3. Without any support of documents disputant bank has added name of opponent no 3. Opponent no.3 has no concern with documents of disputant bank. Opponents no. 1 and 2 are connected with transaction of disputant bank. Even opponent no 3 is not a member of disputant bank. Therefore, in connection to opponent no 3 there is no need to amend the plaint. Disputant bank has already knowledge about these documents and things. Therefore, this application is not legal one. Therefore, prayed for rejection of application.

Heard both sides at a considerable length. Perused the application and say filed on record. It appears from the roznama that the suit is posted for evidence on 05/04/2025. Opportunity given from 07/05/2025 to 18/02/2026. Disputants' banks adjournment application is granted as a last chance to file evidence on record to disputant bank. Though disputant bank failed to file evidence on record. On 27/02/2026 the disputant bank filed an application for amendment in the suit. Disputant bank contents that, after filing of suit disputant society got knowledge about some information and activities of opponent No.3 relating to this suit. Therefore, disputant want to amend the plaint. He further contents that after last line of para 15, they wanted to add information regarding the transaction in between the opponent No.1 ,2 and 3. Disputant got information about transaction done by opponent No.3 time to time. Opponent No.3 taken actual benefits of money which is on the account of opponent No.1 and 2. Again he has withdrawn the amount from the account of opponent No.1 and 2. It appears from the record huge amount is transferred in the account of opponent No.2 in the account of opponent No.3. It is further contention of Disputant that, opponent No.3 got huge amount by illegal way. He further contents that, opponents involved in various companies and did illegal work, and many things which are mentioned in application about to activities of Opponent No 3. Opponent No1,2and 3 collectively did all illegal activities therefore disputant want to bring fact on the record. Which strengthen the case of disputant.

On the other hand, opponents argued that, disputant bank has already knowledge about the transaction of opponent No.3 and all documents in possession and power of disputant bank. Though, with intent to prolong the suit, disputant not

filed the same on record at the time of filing the suit. In the support of this contention opponent No.4&5 relied upon Judgment of Hon'ble Supreme court in **Basavraj v. Indira and others, reported in 2024 INSC 151 in Civil Appeal No.2886/2012 decided on 29 th February, 2024**, has authoritatively held that Mere pleading of oversight is not sufficient to allow amendment of pleadings after commencement of trial and that the provide to order VI rule 17 CPC requires specific Pleading that due diligence was exercised at the time of filing of the suit. In the said case upon finding that no such diligence was pleaded the Honourable Supreme Court set aside the order of High Court allowing the amendment, dismissed the application for amendment of the plant in its entirety and imposed exemplary cost of rupees one lakh upon the disputants who had sought the amendment the fact of the present case are squarely covered by the said decision in as much as the disputant here in has similarly failed to plead or established due diligence. After reading of this Hon'ble Supreme court judgement, it appears that, Hon'ble court imposes costs of Rs.1,00,000/- as the disputant seeking the amendment after the commencement of trial. Therefore, with due respect above cited judgment of Hon'ble Supreme court is not applicable to case in hand. Accord niggly, arguments of opponents about to rejection of application and to impose heavy costs on disputant bank is not found acceptable at this stage. However, in view of O-VI Rule 17 of Civil procedure code, disputant is not seeking amendment here after the commencement of trial. Hence, application filed by disputant bank deserved to be allowed in the interest of justice. After considering 8 to 9 months delay for filing the evidence affidavit, it would be worth to impose costs on disputant bank. Hence, I pass following order.

ORDER

1. Application is allowed.
2. Disputant bank is directed to carry out proposed amendment within limitation.
3. Disputant bank is directed to file a copy of amendment plaint on record.
4. Disputant bank is directed to pay the cost of Rs.5,000/- to the opponent No.1 to 5 on or before next date.

Date: 08/09/2026


Judge 08/09/26

Co-operative Court

Shrirampur.