

MHSN020007342023

ORDER BELOW EXH 33 IN RCS No. 104/2023

(IDBI Bank v. Nawaj Sheikh)

1. This is an application for amendment of plaint under Order VI Rule 17 of CPC. According to plaintiff, The suit is instituted by them for recovery of loan amount from the present Defendant. However, in the para no.5 of Plaint, in the description as to particulars of claim, it has been inadvertently mentioned as “principle balance of home loan account outstanding, as on 14/02/2023”. Whereas the loan given to Defendant was the vehicle loan. Thus Plaintiff has prayed for amending the said content as “principle balance of loan account outstanding, as on 14/02/2023”. Accordingly, claimed to allow this application.

2. According to defendants, in their say at Exh. 34, no reason is mentioned in application, as to why the amendment is sought. The Plaintiff has not come with the clean hands to file the said application, thus the amendment cannot be allowed.

3. Heard the learned advocates of both sides at some length.

4. Perused the documents filed by Plaintiff alongwith Exh.3. From apparent perusal of said documents, it appears that the said documents are looking to be in context of the vehicle (Auto Rikshaw) Loan allegedly taken by the Defendant from Plaintiff Bank. Thus it occurs that, no difficulty to exercise discretion in the above premise. Due to amendment, the controversy would remain unchanged. It appears that it will not affect the nature of suit, since the foundational facts are looking to be remained unchanged. Resultantly, there is a need to adopt liberal approach in deciding this application. Application deserves to be allowed. However, since the application is made after framing of issues, and it was

possible for Plaintiff before framing of issues to cure the mistake inadvertently caused by them by drafting their pleadings. The said is needed to be compensated by paying the costs to Defendant. Hence, I proceed to pass the following order.

ORDER

1]	Application is allowed subject to costs of Rs.700/- (Seven Hundred only) to defendant.
2]	Proposed amendment be carried out in the plaint within 14 days and copy of amended plaint be submitted for defendant.
3]	Plaintiff to comply the costs.
	(Dictated and pronounced in open Court).

Sd/-

(Onkar.S.Shastri)

2nd Jt. Civil Judge, J. D., Sangli.

Date: 07.10.2023

CERTIFICATE

I affirm that the contents of this PDF file are same as per original.

Name of the Court :- 11th Jt. Civil Judge Jr. Dn. Sangli.

Date of decision :- 07.10.2024

Order signed by P.O. on :- 07.10.2024

Order uploaded on :- 07.10.2024