

MHSN020012592018



Order Below Exh. 38 in Special Civil Suit No.145/2018
(Pradip alias Sachin Tukaram Kadam Vs. Abhijeet Balwantrao Chavan)

This is an application under Order-VI Rule-17 of the Civil Procedure Code for amendment in written statement.

Abridge facts required for decision of the application are as under:-

2. The defendant contends that, he has submitted written statement at Exh.30. However, due to inadvertence some explanation in consonance with contentions in plaint remained to be given in it. Therefore, the written statement is required to be amended. Amendment sought for is explanatory in nature and in consonance with the pleadings in written statement, it will neither change the defence nor will bring new case on record. No prejudice will be caused to the plaintiff. Hence, he prayed for allowing the application.

3. The plaintiff has resisted the application by filing say at Exh.40. It is contended that, the application is devoid of merit and has been moved only to prolong the matter and cause harassment of the plaintiff. It is the contention of the plaintiff that while moving the application the defendant has not considered the proviso to order VI Rule 17 of Code of Civil Procedure. No satisfactory explanation of delay in moving the application at belated stage has been given in the application. The defendant has submitted his written statement on 17/08/2023, while the issues have been framed on 02/01/2024. Already the plaintiff has submitted his affidavit of examination-in-chief on 08/07/2024 and now the matter is pending for cross-examination of

the plaintiff. Therefore, an effective hearing has already commenced in this matter. So, at this stage without satisfactory reasons and detailed explanation of the delay application can not be considered. Only it is contended that, due to inadvertence the explanation of some facts remained to be given in written statement. Nothing is mentioned that how this explanation is necessary to determine the real question in controversy. Hence, on all these and other grounds plaintiff prayed for rejection of application.

4. Heard both learned advocates and gone through the record of proceeding. In respect of his argument learned advocate for the defendant relied upon the decisions of Hon'ble High Apex Court in the case of

1) P. Singh Vs. R. P. Singh & Anr. of Civil Appeal No.3761 of 2025 (Arising out of SLP (C) No.9882 of 2024) D/d.17/02/2025.

2) Mr. Susruta Agnelo Paulo Gomes Martins (deceased through Lrs.) & Ors. Vs. Mrs. Meenacshi Philomena Martins in writ petition No.762 of 2017 D/d.30/01/2018 and the decision of

3) Hon'ble Patana High Court in the case of Jagdeo Rishideo and ors. Vs. Tulsi Sharan and ors.

I have gone through these decisions. In all these decision Hon'ble their lordship have observed that, amendments in written statement should be dealt with more liberally. Thus, amendment in plaint and amendment in written statement should not be considered at par when the amendment is explanatory in nature and is not contradictory to the original plea and necessary for just decision of the case. Further, if it does not amount to withdrawal of admissions. In the

decision of *Mrs. Shrusruta Agnelo Paulo Gomes Martins* (supra) referring to decision in the case of *Bharat Petroleum Corporation Ltd. Vrs. Precious Finance Investment Pvt. Ltd. 2006 (6) All. M.R.771* , Hon'ble their lordship has held that,

“the proviso to Order VI Rule 17 of Code of Civil Procedure is procedural and not part of substantive law and the proviso in the present form and context is directory and not mandatory and it aims at weeding out applications which may be frivolous in nature or aimed at prolonging the lis.”

5. Though, facts and circumstances of the case in hand and supra cited decisions are different. But, in case in hand as well, the defendant is seeking amendment in written statement. Perusal of record shows that, he has already come with the defense that, there was hand loan transaction between the plaintiff and the defendant and regarding it, a Summary Criminal Case no.477/2014 was also filed under Section 138 Negotiable Instrument Act and cross-examination of defendant was also conducted in it. By the proposed amendment the defendant is intending to give explanation regarding these facts mentioned in para no.13 by adding para no.13 (A). So, no new case will come on record. On the other hand the amendment sought for is an explanation in nature and it will not take away admissions given by the defendant in his written statement.

6. Record further shows that, matter is for cross-examination so definitely effective hearing has commenced. However, amendment sought for is in written statement and as observed by the Hon'ble their lordship in supra cited decisions it can not be at par with the amendment in plaint. It is explanatory in nature and is required for deciding the matter on merit. So also, it will not bring new case on

record. Further as observed by Hon'ble their lordship, the plaintiff can be compensated by imposing cost on the defendant. So, considering this aspect no prejudice will be caused to the plaintiff. On the other hand if the application is not allowed then it may result in to irreparable loss to the defendant. Hence, in the result I pass following order.

ORDER

1. Application (Exh.38) is hereby allowed subject to costs of Rs.1000/- payable to the plaintiff till next date.
2. The defendant is hereby directed to carry out amendment within stipulated period and submit amended copy of written statement forthwith.

**Date:20/01/2026.
Sangli.**

**(Vibha P. Gaikwad)
Jt. Civil Judge, Sr. Division, Sangli.**

CERTIFICATE

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

Name of the Stenographer.	:D. S. Pawar, Grade-2
Court.	:Jt.C.J.S.D., Sangli.
Order Date.	: 20/01/2026
Order signed by the Presiding Officer on.	: 30/01/2026
Order uploaded on.	: 30/01/2026