

Order Below Exh. 61 In L.A.R. No. 38/2019.
(Bhimrao Patil etc. Vs. State through District collector Sangli)
(CNR No. MHSN050027512019)

The petitioners have filed the present application under Order VI Rule 17 of the Code of Civil Procedure (hereinafter referred to as “the C.P.C.” for short).

2. Read the application. Heard. It is the contention of the petitioners that, due to oversight, Award No. 5/SR/31/2011 has been typed instead of Award No. 5/SR/31/2001. Likewise, the date of the Award has been wrongly mentioned as 17/09/2002 instead of 04/02/2003. Learned counsel has further submitted that the applications filed under section 18 of the Land Acquisition Act, 1894 were decided on 01/01/2014. The applicants applied for certified copies on 06/01/2014 and received the same on 07/03/2014. However, these facts have not been averred in the petition. Hence, the petitioners have prayed for allowing the application. As against this, the learned advocates for the non-applicants have strongly opposed the application, contending that the matter has already been finally heard. Therefore, at this stage, the application for amendment is not tenable.

3. Having heard the parties, I have gone through the record. It is not in dispute that the applicants have filed the reference under Section 28-A of the Land Acquisition Act, 1894 on the basis of the judgment passed in LAR Nos. 3/2005, 4/2005, 7/2005, 29/2005, 30/2005 and 43/2005 dated 01/01/2014. Exhibit 37 shows that Award No. 5/SR/31/2001 came to be passed on 04/02/2003. Exhibit 36 is the affidavit of Mr. Bhimrao Patil wherein he has stated

that the Special Land Acquisition Officer passed Award No. 5/SR/31/2001 on 04/02/2003. The non-applicants have not raised any dispute pertaining to the award number. Hence, there is no impediment to grant permission to make an amendment pertaining to Award No. 5/SR/31/2001.

4. Now turn to determine as to whether permission can be granted to amend dates pertaining to judgment delivered in L.A.R. Nos. 7/2005, 30/2005 and 29/2005, dates of making applications for certified copies of judgment and dates of receipt of the copies of judgments. However, record shows that L.A.R. Nos. 29/2005 and 30/2005 decided on 02/01/2014. Nothing is on record to show that Judgment delivered on 01/01/2014 in L.A.R. No. 7/2005. In such attending circumstances permission cannot be granted for amendment pertaining to dates of the judgment delivered in L.A.R. Nos. 7/2005, 29/2005 and 30/2005.

5. It is not in dispute that, in view of Order VI Rule 17 of the CPC, amendment can be sought before commencement of trial. Courts generally adopt a liberal approach in such matters. Amendments are ordinarily allowed if they assist in determining the real controversy between the parties. The only question raised is whether amendment after conclusion of final arguments is permissible. In other words, the issue is whether amendment after conclusion of final arguments is permissible. While deciding an application for amendment at such a stage, it is necessary to examine whether the party, despite exercising due diligence, could not have raised the matter earlier.

6. In the present case, it is not in dispute that both parties advanced their final arguments and the matter was adjourned for judgment. When the case was fixed for pronouncement of judgment, the petitioners filed the present application. I have already discussed that the non-applicants have raised an objection only with regard to the stage of filing of the application, and not in respect of the proposed amendment itself. In a catena of judgments, the Hon'ble Apex Court as well as the Hon'ble High Courts have consistently held that the Court may, at any stage of the proceedings, permit either party to alter or amend its pleadings. All such amendments are to be allowed if they are necessary for the purpose of determining the real questions in controversy between the parties.

7. In the present case, the learned advocate for the petitioners has fairly submitted that, due to oversight, the number of the Award was typed incorrectly. He also failed to mention the dates of the judgment, the date of application for getting certified copies, and the date of receipt of the copies of the said judgments. The record appears to be consistent with the proposed amendment pertaining to award number only. I have already discussed that permission cannot be granted for amendment pertaining to dates of the judgment delivered in L.A.R. Nos. 7/2005, 29/2005 and 30/2005.

8. Now, turn to the question whether the proposed amendment is necessary for determining the real controversy between the parties. Record shows that the petitioners might indeed have failed to raise the matter pertaining to Award number earlier due to oversight. The fair submission made on behalf of the

petitioners can, therefore, be considered in the interest of fair adjudication. That apart, the record indicates that the errors are merely typographical in nature. The present proceeding arises under a social welfare legislation, and hence a liberal approach is expected.

9. As discussed, the present reference is based on Award No. 5/SR/31/2001. The number of the Award is not in dispute. If the application is rejected, complications pertaining to Award number may arise in future, and the petitioners may be compelled to file a fresh application. Hence, it is necessary to resolve the dispute in the present proceedings itself so as to avoid multiplicity of litigation. No prejudice would be caused to the non-applicants if the application is allowed to the extent of making amendment pertaining to award number. So also, the nature of the application won't be altered due to proposed amendment to the extent of Award number. Considering the circumstances and the aforementioned discussion, I am of the view that the application deserves to be allowed partly.

ORDER

1. Application is hereby partly allowed.
2. The applicants are hereby directed to carry out proposed amendment pertaining to Award No. 5/SR/31/2001 only within 14 days from the date of this order and produced amended copy of the reference on record.
3. Cost in cause.

Islampur.
Date:- 29/11/2025.

(Bhagwan M. Karlekar)
Jt. Civil Judge Sr. Dn., Islampur.