

R.C.S.No. 160/2025

ORDER BELOW EXH.36

The present application is filed by the plaintiff seeking amendment of the prayer clause in the application preferred under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908.

2. The learned counsel for the plaintiff submits that the proposed amendment is only in respect of the relief sought in the injunction application and is necessary for effective adjudication of the dispute. It is submitted that no new facts or cause of action are sought to be introduced and the amendment would not prejudice the defendant.

3. The learned counsel for the defendant opposes the application. It is contended that the application under Order XXXIX Rules 1 and 2 CPC is not a pleading and therefore cannot be amended by invoking Order VI Rule 17 CPC. According to the defendant, the amendment application is not maintainable and deserves to be rejected.

4. Heard both sides. Perused the record.

5. The defendant has objected to the maintainability of the present application on the ground that Order VI Rule 17 CPC applies only to pleadings and not to an application under Order XXXIX Rules 1 and 2 CPC. While the said proposition is legally correct, it does not necessarily follow that an interlocutory application is incapable of being amended. The real question is whether the Court, in exercise of its inherent powers under Section 151 CPC, can permit such amendment to advance the cause of justice and to effectively determine the controversy

between the parties.

6. It is well settled that the Civil Court possesses inherent powers under Section 151 of the Code of Civil Procedure to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court. The power to permit amendment of an interlocutory application can be exercised under Section 151 CPC where such amendment is necessary for proper adjudication of the matter and does not alter the fundamental nature of the proceedings.

7. In the present case, the plaintiff seeks amendment only in the prayer clause of the injunction application. The proposed amendment neither introduces a new cause of action nor changes the nature of the suit. The controversy between the parties remains the same. The defendant can be adequately protected by granting liberty to file an additional reply to the amended application.

8. Therefore, merely because Order VI Rule 17 CPC is not applicable to an application under Order XXXIX Rules 1 and 2 CPC, the amendment cannot be refused when the Court can exercise its inherent jurisdiction under Section 151 CPC. In view of the above discussion, the application deserves to be allowed.

ORDER

1. The application filed by the plaintiff seeking amendment of the prayer clause in the application under Order XXXIX Rules 1 and 2 CPC is hereby allowed subject to payment of cost of Rs. 500/- payable to defendant.

2. Cost shall be paid within 14 days from the date of this order.
3. The plaintiff shall carry out the amendment within 14 days from today.
4. The defendant is at liberty to file an additional reply, if any, to the amended application within 14 days thereafter.

Sd/-

Place : Dahiwadi.

(A. Y. Shaikh)

Date : 17.06.2026.

Jt. C.J.J.D., Dahiwadi.