

ORDER

Perused application and say. Heard both sides.

By this application the defendant no. 2 has requested for permission for consequential amendment. The defendant no. 2 submitted that, both the defendant no. 1 & 2 mostly reside of side Washim, they could not filed application for consequential amendment inadvertently after the amendment of plaint by the plaintiff. The plaintiff has filed two amendment applications, both were allowed. Hence he want to add certain paras in the written statement. The proposed amendment is necessary as it is regarding subsequent events, it will not cause any prejudice to the adversary. Hence the amendment be allowed. The proposed amendments are in respect of consequential amendments.

The application is strongly opposed, submitting that, the matter is fixed for cross examination. The evidence is commenced, no reason is assign for delay. Hence the application be rejected.

On going through the record, it is reveals that, the plaintiff has initially amended the suit vide order below amendment application exh. 24 dated 01/10/2012. For the second time the plaint was amended as per order below exh. 33 on 27/02/2015. Meanwhile an appeal was filed before the Hon'ble High Court in respect of order for temporary injunction. The issues were framed on 22/06/2016. The plaintiff has submitted his evidence affidavit Exh. 43 on 20/02/2017. Despite proceeding further with the cross examination of the plaintiff, the defendant moved this application on 11/10/2017. Having regard to the nature of amendment and the fact that, it is consequential amendment in the written statement, it can be considered to diminish the possibility of multiplicity of litigations. The evidence of plaintiff side is not yet completed. Therefore the request can be considered on certain cost. The earlier amendment was carried out in plaint on 18/10/2012 and the subsequent amendment was incorporated in the plaint on 27/02/2015. This application is moved on 11/10/2017 i.e. after about five years of earlier amendment and two years and eight months of subsequent amendment. In this circumstances call upon to certain cost of Rs. 5,000/- thousand each to D.L.S.A, Akola and the plaintiff. Accordingly following order is passed.

Order

On payment of cost of Rs. 5,000/- each to the plaintiff and D.L.S.A., Akola on or before next date the application shall be allowed. The amendment shall be carried out forthwith after depositing cost followed by filing copy of amended written statement. Failure to comply the order in the stipulated manner, shall render it non est.

Sd/-

Date:- 11/12/2017

Civil Judge (Sr. Dn.),
Washim.

Certificate.

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

Court Name : Civil Judge (Sr.Dn.), Washim.

Date : 11/12/2017

Order signed by the Presiding
Officer on : 11/12/2017

Order uploaded on : 11/12/2017