

ORDER PASSED BELOW EXH.19 IN R.D No.104/2013
(CNR No. MHWS02-000555-2013)
(Gayabai Katekar Vs. State)

Perused the application, say filed thereon. Heard learned advocates for both sides. It is the contention of the D.H. that, initially at the time of filing of execution petition in the year 2013 interest is calculated till October-2013. Thereafter, from 01.11.2013 to 01.07.2022 interest is not calculated to the tune of Rs.2,39,700/-. As per the D.H., in column no.7 and 10 correction in respect of interest amount of Rs.4,27,894/- is to be carried out instead of Rs.1,88,194/-. Accordingly, D.H. prayed for carrying out the amendment. J.D. prayed for rejection of application by filing say below Exh.19, contending that, by way of proposed amendment D.H. wants to grab the amount from the state and the same is not permissible.

2] Admittedly, in the Exh.1 is calculated till October-2013 and from 01.11.2013 to 01.07.2022 interest is not calculated. In view of reasons it is necessary to add the interest. At this stage, it is not necessary to look into the merits of the case, while considering the application for amendment. The proposed amendment will help for determining of real controversy between the parties. D.H. is claiming certain reliefs on the basis of subsequent changes that arose during the pendency of execution proceeding. It is well settled that, the rules of procedure are intended to be a hand made to the administration of justice. A party can not be refused just relief because of some mistake, negligence, inadvertence on his part. If the proposed amendment is allowed, then it will not change the nature of suit. Therefore, in my view, it is necessary in the interest of justice to direct the D.H. to amend the Exh.1, because

it will help to avoid multiplicity of proceeding and it will help to decide the real controversy between the parties.

3] By the proposed amendment, no new case is made out nor could it be said that the application is malafide. In the light of above discussion and after taking into account the facts and circumstances of the case, the proposed amendment is necessary for determination of real controversy in between the parties on merits and it will not cause in justice, prejudice to the other side. In the result, following order is passed :

ORDER

- 1]** The application is allowed.
- 2]** D.H. is hereby directed to carry out the amendment within 14 days as per Order VI, Rule 18 of Civil Procedure Code and file on record amended copy of Exh.1.

(G.M. Charankar)

Date: 20.01.2023

4th Jt. Civil Judge Sr. Dn., Washim

CERTIFICATE

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

- (a) Name of the Stenographer : S.R.Dhadve, Jr.Clerk
- (b) Name of the Court : 4th Jt. C.J.S.D., Washim
- (c) Order signed by P.O. on : 20.01.2023
- (d) Order uploaded on : 20.01.2023