

I.A.NO.6/2023 in OS No.113/2021

17.04.2024

Orders Pronounced:

Heard both sides. Perused the records.

This is a petition filed by the petitioner/plaintiff u/o.VI R.17 CPC seeking to amend the plaint.

This petition has been filed by the plaintiff at the stage of arguments i.e., after commencement of trial and in fact after the completion of the evidence on both sides.

The petitioner has filed this petition stating that while preparing the argument, it is found that some clerical errors in the plaint specifically in the nature of cause of action including the incident of public and individual enquiry and the subsequent comment on 24.03.2022 and the dates of legal notice and reply notice and that those facts are material facts for Issue No.1 and that hence it is necessary to amend the plaint.

The respondents resisted the application on the grounds that the proposed facts which is sought to be amended were happened before filing suit and that the date mentioned in the petition is again not correct and that hence it is evident that the intention of the petitioner is to drag on the proceedings.

Admittedly the petitioner filed the main suit for defamation seeking compensation against Government officials. The trial was commenced on 02.09.2022 and after long time, petitioner side evidence was closed on 20.04.2023 and both sides evidence was completed on 13.07.2023 and the suit was posted for arguments on 20.07.2023. After getting several adjournments till 29.09.2023, the petitioner/plaintiff has filed this petition. In the mean time, the petitioner has filed the petition to reopen and recall Pw1 which were also allowed. Thereafter the petitioner has filed this petition on 29.9.2023. Hence this petition has been filed after commencement of trial and in fact after the completion of trial and at the fag end of the case.

Though the petitioner has filed this petition seeking permission to amend the plaint in order to include the pleadings relating to the incident happened before filing suit, nothing is stated as to why the same were not pleaded in original plaint or at least before commencement of trial. This petition has been filed at the stage of arguments which means after the commencement of trial and after the completion of evidence on both sides. But nothing has been stated in the petition as to why the petitioner could not raise the said plea in his original plaint or at least before the commencement of trial.

In such circumstances no due diligence is pleaded by the petitioners as to why the same was not pleaded before commencement of trial. Hence this court is of the view that this petition is not liable to be allowed.

In the result this petition is dismissed with costs.

Sub Judge

Eraniel