

28 CS DJ 464/2016 7057/16
MUHAMMAD YUSUF Vs. SAMEENA BEGUM ANR

11.04.2026

Present: Sh. Musharraf Ali, Ld. Counsel for Yusuf.
Sh. Ravi Kumar, Ld. Counsel for Sameena.
Sh. M. Siddiqui, Ld. Counsel for Mohd. Taufeeq and Gallon
Builder

ORDER

1. Vide this order I shall decide application u/o VI rule 17 CPC filed by the plaintiff seeking amendment of plaint.

2. Ld. Counsel for the plaintiff would argue that initially the suit was filed for specific performance, declaration, injunction and compensation. The defendant no. 1 and 2 approached the plaintiff stating that they wanted to reconstruct the building after demolition of old construction and the defendant no. 1 and 2 were selling the shops which they were going to construct after demolition. The defendant no. 1 and 2 agreed to sell one room for shop after construction in the building to the plaintiff for consideration of Rs. 9.5 lakhs. The plaintiff paid advance payment of Rs. 4 lakhs to the defendant no. 1 and 2 and the defendant no. 1 and 2 issued Receipt dated 09.08.2009. The defendant no. 1 and 2 also prepared MoU on 09.10.2009. Due to dispute in respect of the property, construction could not take place. On 12.07.2011, another agreement was executed by the defendant no. 1 and 2 and the plaintiff was given possession of one room in the old construction. However, new

construction could not take place. The defendant no. 1 and 2 failed to keep the promise and have not started construction till date. Later, defendant no. 1 and 2 sent legal notice to the plaintiff to vacate the room and stated that Rs. 4 lakh was adjusted as rent. Therefore, the plaintiff filed suit for mandatory injunction and permanent injunction before Ld. Civil Judge. Before Ld. Civil Judge, defendant no. 1 and 2 gave statement that they will not dispossess the plaintiff from the property and Ld. Civil Judge passed order directing defendants not to dispossess the plaintiff from the room without due process of law. Thereafter, the defendant no. 1 filed suit for declaration, possession and permanent injunction against the plaintiff herein. Thereafter, the plaintiff filed the present suit for specific performance, declaration and permanent injunction. Mohd. Taufeeq was also one of the tenant in the said property and he was also impleaded as party to the present suit on his application u/o I rule 10 CPC. By way of present application, the plaintiff wants to insert those subsequent facts which had taken place after impleadment of defendant no. 3 and 4 (Mohd Taufeeq and M/s Gallan Builder) and after dispossession of the plaintiff from the one room in the execution proceedings filed by defendant no. 3 and 4 before Ld. Civil Judge and accordingly, prayer of restoration of possession is also added in the amended plaint.

3. Ld. Counsel for defendant no. 1 and 2 has argued that he has no objection if the application u/o VI Rule 17 CPC is allowed and the subsequent events are taken on record by way of present amendment.

4. On the other hand, Ld. Counsel for defendant no. 3 and 4 (Mohd. Taufeeq and Gallan Builder) has argued that Sameena Begum has claimed to be the owner of the property after purchasing it from Rabia and others, however, the suit filed by Predecessor in interest of defendant no. 3 and 4 against the Predecessor in interest of Rabia and others for decree of possession was passed against Predecessor in interest of Rabia and Rabia had no right or title to transfer the property to Sameena Begum. The defendants 3 and 4 have been arrayed as parties as they are the lawful owner of the property. The defendant nos. 3 and 4 have legally dispossessed the plaintiff from the suit property which has been purchased through conveyance deed. Defendant no. 3 and 4 are lawful owners of the suit property. The plaintiff wants to add para 30(a) to 30(f) in the amended plaint by way of present application and if such amendment is allowed, the nature of the suit will change as the defendant 3 and 4 have got the warrant of possession from the executing Court and they have received the possession in the execution proceedings. The plaintiff and the defendants 1 and 2 are hand in gloves with each other. The present application is not maintainable as the same is barred under Order XXI CPC. The plaintiff has already filed objection in the execution petition. There is conveyance deed and decree dated 25.10.1980 in favour of the previous owners and the appeal was also dismissed. Only those amendments are permissible which are necessary for determining the real controversy in the suit. The amendment sought is unnecessary and irrelevant. The present application has been filed

only to delay the proceedings and the application deserves to be dismissed.

5. I have considered the submissions and perused the record.

6. The law in respect of Order VI rule 17 CPC has been settled by way of judicial pronouncements.

7. Hon'ble Supreme Court in the case of **Dinesh Goyal @ Pappu v. Suman Agarwal (Bindal) & Ors., SLPC (Civil) No. 30324/2019 dated 24.09.2024**, has held as under:

“11. At this juncture, before proceeding to the merits of the case, let us consider the law relating to the amendments of pleadings.

11.1 The settled rule is that the Courts should adopt a liberal approach in granting leave to amend pleadings, however, the same cannot be in contravention of the statutory boundaries placed on such power. In *North Eastern Railway Administration, Gorakhpur v. Bhagwan Das*⁶ it was held as under:

“16. Insofar as the principles which govern the question of granting or disallowing amendments under Order 6 Rule 17 CPC (as it stood at the relevant time) are concerned, these are also well settled. Order 6 Rule 17 CPC postulates amendment of pleadings at any stage of the proceedings. In *Pirgonda Hongonda Pati v. Kalgonda Shidgonda Pati* [AIR 1957 SC 363] which still holds the field, it was held that all amendments ought to be allowed which satisfy the two conditions : (a) of not working injustice to the other side, and (b) of being necessary for the purpose of determining the real questions in controversy between the parties. Amendments should be refused only where the other party cannot be placed in the same position as if the pleading had been originally correct, but the amendment would cause him an injury which could not be compensated in costs. [Also see *Gajanan Jaikishan Joshi v. Prabhakar Mohanlal Kalwai* (1990) 1 SCC 166.]”

11.2 Over the years, through numerous judicial precedents certain factors have been outlined for the application of Order VI Rule 17. Recently, this Court in *Life Insurance Corporation of India v. Sanjeev Builders Pvt. Ltd.*⁷, after considering numerous precedents

in regard to the amendment of pleadings, culled out certain principles:—

(i) All amendments are to be allowed which are necessary for determining the real question in controversy provided it does not cause injustice or prejudice to the other side. This is mandatory, as is apparent from the use of the word “shall”, in the latter part of Order VI Rule 17 of the CPC.

(ii) In the following scenario such applications should be ordinarily allowed if the amendment is for effective and proper adjudication of the controversy between the parties to avoid multiplicity of proceedings, provided it does not result in injustice to the other side.

(iii) **Amendments, while generally should be allowed, the same should be disallowed if –**

(a) By the amendment, the parties seeking amendment does not seek to withdraw any clear admission made by the party which confers a right on the other side.

(b) The amendment does not raise a time-barred claim, resulting in the divesting of the other side of a valuable accrued right (in certain situations)

(c) The amendment completely changes the nature of the suit;

(d) The prayer for amendment is *malafide*,

(e) By the amendment, the other side should not lose a valid defence.

(iv) Some general principles to be kept in mind are –

(I) The court should avoid a hyper-technical approach; ordinarily be liberal, especially when the opposite party can be compensated by costs.

(II) Amendment may be justifiably allowed where it is intended to rectify the absence of material particulars in the plaint or introduce an additional or a new approach.

(III) The amendment should not change the cause of action, so as to set up an entirely new case, foreign to the case set up in the plaint.”

8. In the plaint, the plaintiff had prayed for relief of specific performance, declaration, permanent injunction and compensation in respect of room measuring 8 x 11 feet in property no. 20/A and 20/1A, Basti Hazrat Nizamuddin, New Delhi. By way of amendment

application, the plaintiff seeks to insert subsequent events that had taken place after filing of the present suit by the plaintiff. The plaintiff by way of present application seeks permission to add para no. 30A to 30F. In para no. 30A to 30F, the plaintiff has made averments that the defendant no. 3 and 4 moved an application u/o I rule 10 CPC which was allowed by the Court, they were arrayed as party and after their impleadment, they were aware of the present litigation and stay order passed in the another connected case. Defendant no. 3 and 4 claiming themselves to be decree holders had obtained warrant of possession from the executing court and with the help of police and bailiff, warrants of possession was issued in respect of entire property no. 167, Basti Hazrat Nizamuddin, New Delhi and by execution of that warrant of possession, defendant no. 3 and 4 had illegally dispossessed the plaintiff from room measuring 8 x 11 feet in the said property.

9. The para 30 A to 30F which the plaintiff wishes to insert by way of present amendment is mainly about the application u/o I rule 10 CPC being allowed, stay order passed by the Court and the warrant of possession obtained by the defendant no. 3 and 4 in the execution proceedings and as to how the plaintiff was dispossessed from his portion in the property no. 20/A and 20/1A Basti, Hazrat Nizamuddin, New Delhi. Consequential amendment is accordingly sought in the cause of action paragraph, valuation paragraph and relief paragraph. Only subsequent events have been added in the proposed amendments by the plaintiff.

10. The amendment proposed by the plaintiff is not going to prejudice the defence of the defendants in any manner. The amendment is essential for the just adjudication of the dispute between the parties as the amendment would bring on record the subsequent events which had taken place after filing of the present suit. The amendments sought by the plaintiff are necessary for determining the real question in controversy and it does not cause injustice or prejudice to the defendants. **The application for amendment filed by the plaintiff u/o VI rule 17 CPC is therefore, allowed. Amended plaint is taken on record.**

11. The defendants are given opportunity to file additional WS to the amended plaint. Let the additional WS to the amended plaint be filed within four weeks and advance copy be supplied to the plaintiff.

12. Be put up for further arguments on application u/o VII rule 11 CPC r/ order XII rule 6 CPC on **25.05.2026**.

(NEHA)
District Judge-06/South East
Saket Court/11.04.2026