

LR Misc Case 05 of 2023

Order No. 22 Dated:06.01.2025

Today is fixed for clarification and order in respect of the petition under Section 151.

Both parties filed hazira.

Ld. Advocate for the petitioner submitted that due to some typographical error and bona fide mistakes occurred in the plaint which need to be rectified and are mentioned in the schedule of the petition. It is merely a typographical error and not intentional. If it is not corrected then the real controversy in dispute will not be determined. This amendment will not change the nature, character and cause of action of the suit. The amendment proposed is formal in nature.

Hence the petitioner prays for amendment of the plaint as per the schedule mentioned in the petition.

Ld. Advocate of the OP Nos. 1 to 10 raised vehement objection stating that the petitioners have filed the amendment application under Section 151 to amend the plaint but this court has no jurisdiction to entertain this matter on under Section 151 of CPC. Hence the petition is liable to be rejected.

The OP relied on the case law My Palace Mutually aided co-operative society Vs. B. Mahesh & Ors. Civil Appeal No. 5784 of 2022 (@S.L.P. (Civil) No. 7015/2022)

After perusal of the record and the petition it is seen that the petitioner filed the application for amendment of the application under Sections 8 and 9 of WBLR Act. The amendment application has been filed u/S 151 and the Opposite Parties have raised the objection that the amendment application cannot be filed under Section 151 of CPC when there is a separate provision for the same.

It is to be mentioned here that from the plain reading of the petition the intention of the petitioner is to amend the application and it cannot be rejected merely that the caption is incorrect. The proposed amendment is very much formal in nature and if it is incorporated it will not change the nature and character of the suit.

Thus, considering the nature of the amendment, the stage of the instant suit and to determine the real question in controversy between the parties and also for the ends of justice the amendment sought for should be allowed. So, this Court is

inclined to allow the amendment of the plaint as per the schedule mentioned in the petition.

Hence, it is

ORDERED

that the petition U/O 6 Rule 17 be and the same is hereby allowed and disposed of on contest without any cost. The plaintiff is allowed to amend the plaint as per the schedule of the present petition. The plaintiff is also directed to file the amended plaint within 14 days accordingly.

To **06.02.2025** for filing of the amendment plaint.

Dictated & corrected by me

CJ

**Civil Judge (Jr.Div.)
Amta, Howrah**