

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 4355/2023

Vishnu Dutt Sharma Son Of Anand Ram Ji, Aged About 61 Years,
Resident Behind P W D Office, Lanka Gate, Bundi (Raj.)

----Plaintiff/Applicant/Petitioner

Versus

Indra Singh Yadav Son Of Takht Singh Yadav, Resident Of Radha
Bhawan, Shyam Gali, House Number 195/30, Hathi Bhata Ajmer
(Raj.)

----Defendant/Non-Applicant/Non-Petitioner

For Petitioner(s) : Mr. Sudarshan Kumar Laddha
Mr. Naman Jain

For Respondent(s) : Mr. Rahul Agarwal

HON'BLE MR. JUSTICE BIPIN GUPTA

Judgment / Order

21/04/2026

1. The matter comes upon an application No. 01/2026, seeking early listing.
2. For the reason mentioned in the said application, the same is allowed. With the consent of both the parties, the writ petition is finally heard today.
3. The present writ petition has been filed assailing the order dated 03.02.2023, passed by learned Additional Chief Judicial Magistrate, No. 02, Bundi, in Civil Case No. 26/2019, whereby the application filed by the plaintiff-petitioner under Order 6 Rule 17 CPC was rejected.
4. Learned counsel for the petitioner submits that, due to an inadvertent typographical error, the name of the plaintiff's father in the plaint was recorded as "Anand Ram" instead of "Anant Ram".

Accordingly, an application under Order 6 Rule 17 CPC was filed seeking correction of the said name.

5. Learned counsel for the petitioner further submits that the error is purely typographical in nature. The proposed amendment neither changes the nature of the suit nor causes any prejudice to the defendant, as no admission is sought to be withdrawn. Reliance has been placed on the judgment passed by the Hon'ble Supreme Court in the case of ***Life Insurance Corporation of India vs Sanjeev Builders Private Limited &Anr.***; 2022 (16) SCC 1.

6. Per contra, learned counsel for the respondent submits that the application was filed after completion of the plaintiff's cross-examination. He further submits that during cross-examination, the plaintiff was confronted with the fact that in several instances he had mentioned his father's name as "Anand Ram" instead of "Anant Ram". Therefore, the learned Trial Court has rightly rejected the application.

7. Heard learned counsel for the parties and perused the material available on record.

8. This Court finds that in the case of ***Sanjeev Builders*** (supra) the Hon'ble Apex Court has held that amendments should ordinarily be permitted where they do not alter the nature of the suit, are not barred by limitation, and do not cause prejudice to the opposite party. The relevant paragraph reads as under:

"71. Our final conclusions may be summed up thus:

71.1. Order II Rule 2 Code of Civil Procedure operates as a bar against a subsequent suit if the requisite conditions for application thereof are satisfied and the field of

amendment of pleadings falls far beyond its purview. The plea of amendment being barred Under Order II Rule 2 Code of Civil Procedure is, thus, misconceived and hence negated.

71.2. 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 Code of Civil Procedure.

71.3. The prayer for amendment is to be allowed.

71.3.1. If the amendment is required for effective and proper adjudication of the controversy between the parties.

*71.3.2. To avoid multiplicity of proceedings, provided
(a) the amendment does not result in injustice to the other side*

(b) 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 and

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

71.4. A prayer for amendment is generally required to be allowed unless:

71.4.1 By the amendment, a time barred claim is sought to be introduced, in which case the fact that the claim would be time barred becomes a relevant factor for consideration.

71.4.2. The amendment changes the nature of the suit.

71.4.3. The prayer for amendment is malafide, or

71.4.4. By the amendment, the other side loses a valid defence.

71.5. In dealing with a prayer for amendment of pleadings, the court should avoid a hyper technical approach,

and is ordinarily required to be liberal especially where the opposite party can be compensated by costs.

71.6. Where the amendment would enable the court to pin- pointedly consider the dispute and would aid in rendering a more satisfactory decision, the prayer for amendment should be allowed.

71.7. Where the amendment merely sought to introduce an additional or a new approach without introducing a time barred cause of action, the amendment is liable to be allowed even after expiry of limitation.

71.8. Amendment may be justifiably allowed where it is intended to rectify the absence of material particulars in the plaint.

71.9. Delay in applying for amendment alone is not aground to disallow the prayer. Where the aspect of delay is arguable, the prayer for amendment could be allowed and the issue of limitation framed separately for decision.

71.10. Where the amendment changes the nature of the suit or the cause of action, so as to set up an entirely new case, foreign to the case set up in the plaint, the amendment must be disallowed. Where, however, the amendment sought is only with respect to the relief in the plaint, and is predicated on facts which are already pleaded in the plaint, ordinarily the amendment is required to be allowed.

71.11. Where the amendment is sought before commencement of trial, the court is required to be liberal in its approach. The court is required to bear in mind the fact that the opposite party would have a chance to meet the case set up in amendment. As such, where the amendment does not result in irreparable prejudice to the opposite party, or divest the opposite party of an advantage which it had secured as a result of an admission by the party seeking amendment, the amendment is required to be allowed. Equally, where the amend-

ment is necessary for the court to effectively adjudicate on the main issues in controversy between the parties, the amendment should be allowed.”

(Emphasis Supplied)

9. Thus, as per the principles laid down in the case of **Sanjeev Builders** (supra), an amendment must be refused where it introduces a time-barred claim; and it results in divesting the opposite party of a valuable accrued right. While applying the said ratio of the Hon'ble Apex Court in the present case, this Court finds that the suit pertains to recovery and the proposed amendment is limited to correction of a typographical error in the name of the plaintiff's father. It neither alters the nature of the suit nor can it be said to be time-barred. Further, no prejudice is shown to have been caused to the defence of the respondents.

10. In view of the above, this Court finds that the learned Trial Court committed an error in rejecting the application under Order 6 Rule 17 CPC.

11. Accordingly, the present writ petition is hereby allowed and the order dated 03.02.2023, passed by learned Additional Chief Judicial Magistrate, No. 02, Bundi, in Civil Case No. 26/2019, is quashed and set aside. The application filed by the plaintiff-petitioner under Order 6 Rule 17 CPC is allowed.

12. Amended suit be filed by the plaintiff in accordance with law before the learned trial Court.

13. Pending applications(s), if any, stand disposed of.

(BIPIN GUPTA),J