

**IN THE HIGH COURT OF UTTARAKHAND AT
NAINITAL**

**Amendment Application No. 5645 of 2012
Miscellaneous Application No. 5646 of 2012
Objection In Amendment Application No. 7114 of 2012
Objection to Miscellaneous Application No. 7115 of 2012
In
First Appeal No. 43 of 2004**

Smt. Krishan Kochar
R/o 52-F, Rajpur Road
Dehradun, District Dehradun

..... Appellant.

Versus

1. State of Uttaranchal through
Collector, Dehradun
2. Municipal Board
Dehradun, Now known as Nagar
Nigam Dehradun through its up Nagar
Adhikari
3. Garhwal Mandal Vikas Nigam Ltd.
74, Rajpur Road, Dehradun.

.....Respondents

**Shri Piyush Garg, Advocate, present for the pliantiff/appellant.
Shri B.D.Upadhyay, Senior Advocate, assisted by Shri Sunil
Upadhyay, Advocate, present for the defendants/ respondent nos. 2
and 3.
Shri B.D.Kandpal, Deputy Advocate General, present for the
respondent no.1.**

Hon'ble Prafulla C. Pant, J.

Heard.

(2) This is Amendment Application No. 5645 of 2012 moved on behalf of the plaintiff/appellant at the appellate stage for amendment in the plaint whereby ten paragraphs 25 A to 25J sought to be added in the plaint relating to regularization of the land in suit.

(3) Under Order 6 Rule 17 of Code of Civil Procedure, 1908, court may at any stage of proceedings allow a party to make amendments in the pleading but the proviso to it says that no application for amendment shall be allowed after the trial has commenced, unless the court comes to the conclusion that inspite of due diligence the party could not have raised the matter before the commencement of trial.

(4) Having heard learned counsel for the

parties, this court finds that the amendment sought cannot be allowed to be made in the plaint, particularly, in view of the fact that the document filed with the supplementary affidavit showing that alleged regularization made in favour of the plaintiff has already been cancelled.

(5) In the above circumstances, the Amendment Application No.5645 of 2012 is rejected.

(6) Also, heard on Miscellaneous Application No. 5646 of 2012 moved under Order 41 Rule 27 of Code of Civil Procedure, 1908, whereby the plaintiff/appellant has sought to file nine documents relating to regularization of the land copies of which are filed with the supplementary affidavit dated 20.05.2011.

(7) Since, the above documents do not relate to the pleadings of the parties, this court does not find that the documents are covered under the grounds clause (a) (aa) and clause (b) of

Rule 27 of Order 41 of the Code.

(8) Therefore, the Misc. Application No. 5646 of 2012 moved under Order 41 Rule 27 of the Code is also dismissed. Objections filed to the application also stand disposed of.

(9) List this appeal for final hearing in due course.

(Prafulla C. Pant, J.)

Dt.17.04.2013

NP