

**HIGH COURT OF TRIPURA  
AGARTALA**

**CRP No.32 of 2024**

Sri Shyamal Sarkar & another

.....Petitioner(s);

Versus

Sri Subhash Debnath

.....Respondent(s)

For Petitioner(s) : Mr. N. Chowdhury, Advocate.

For Respondent(s) : None.

**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH**

**Order**

**02/05/2024**

The instant revision petition assails the order dated 22.03.2024 by which the application under Order VI Rule 17 of CPC read with Section 151 of CPC preferred by the plaintiff was allowed.

2. To trace back the history of litigation on this issue, it is relevant to refer to the chronology of certain dates. According to the petitioners, the suit is of the year 2016 instituted for confirmation of title and recovery of khas possession by the plaintiff. On 29.03.2018, the issues were framed. The plaintiff sought amendment of the plaint through application dated 19.02.2021 but after the evidence and arguments were closed and even after taking several adjournments. That application was rejected by order dated 06.04.2022 whereafter petitioner approached this Court in CRP No.32/2022 which was also dismissed. Thereafter the plaintiff approached the Apex Court in Civil Appeal No.3517 of 2023 arising from SLP(C) No.21461/2022. The Apex Court though did not interfere in the matter but observed as under:

“9. It has been pointed out that the proceedings in the suit are now fixed for final arguments.

10. We have examined the plaint as a whole. Though, we are not making any comments on the merits of the case nor even on the merits of the application seeking amendment, but having examined the orders impugned and the plaint as a whole as also the prayer as made by the appellant, we are of the view that it shall serve the cause of justice if the application filed by the appellant seeking amendment of the plaint is restored for reconsideration of the Trial Court with the requirement that the Trial Court may consider the said application along with the final hearing of the suit and then take an appropriate decision on the said application.

11. The impugned orders are accordingly set aside and the application stands restored for reconsideration of the Trial Court.

12. The appeal stands disposed of accordingly. No costs.

13. All pending applications also stand disposed of.”

Thereafter, the learned Trial Court, upon consideration of the submission of the parties and the background facts, allowed the amendment in the measurement of the suit land and also two dates as pleaded in the plaint. The operative part of the impugned order is extracted hereunder:

“ Heard and considered.

I have perused the schedule of the proposed amendment.

On perusal of the schedule of the plaint it appears that suit land is described in plot No.1336 under Khatian No.1939/1 of Tehsil and Mouja Teliamura.

The plaintiff side at the stage of submission of document had submitted the certified copy of the aforesaid Khatian.

It is apparent from the schedule of the plaint that suit land measuring 10 gandas is situated in Tehsil and Mouja Teliamura and described in Khatian No.1939/1.

But on perusal of Para No.2 and 4 of the plaint it appears that the measurement of suit land is 5 ganda. It goes without saying that unless the measurement of the suit land is properly given, it would definitely cause prejudice to all and none would be benefitted, if the area is not correctly described.

So it appears that, by filing the present petition, the plaintiff is not going to change the plot No and Khatian No of the suit land. It also appears that both the dates, i.e. 30.09.2014 and 31.12.2015 are available in the original plaint. In my considered opinion by filing the present amendment petition the Plaintiff is not introducing a new cause of action. Ld Advocate for the defendant OP submitted that the plaintiff had submitted this petition at the stage of argument and this petition is not maintainable. But on careful perusal of the present petition of the plaintiff petitioner it appears that the plaintiff is a permanent resident of Teliamura which is more than 50 km away from Agartala. After filing of this suit the plaintiff petitioner had changed his lawyer and at the stage of argument this typographical mistake has been revealed.

In my considered opinion if the present petition of plaintiff side is allowed then the defendant side will not be prejudiced. It appears that proposed amendment will be helpful for determination of the real controversies in the suit. It also appears that if the proposed amendment is allowed then the nature and character of this suit will not be changed.

Thus considering the facts and circumstances of this case and also considering the spirit of the judgment dated 08.05.2023 of Hon'ble Supreme

Court of India passed in Civil Appeal 3517 of 2023 (arising out of SLP(C) No.21461 of 2022) I allow the petition filed by the plaintiff petitioner under Order VI Rule 17 of CPC read with section 151 of CPC.

The Sheristadar of this court is hereby directed to make amendment, on basis of the schedule of amendment as described in the petition filed by the plaintiff.

Thus this misc case is disposed of on contest.

Make necessary entry in TR and CIS.”

Being aggrieved, the respondents have approached this Court in the present revision petition.

3. Mr. N. Chowdhury, learned counsel for the petitioner, submits that the amendments are going to change the date on which the cause of action arose and is vitally going to affect the nature of the relief which the plaintiff would ultimately be claiming. All the more, the amendments have been allowed after evidence and arguments were closed. He further submits that the Apex Court did not observe anything on merits as regards the prayer of the plaintiff regarding the proposed amendments. The learned Trial Court, therefore, fell in error in allowing amendment at this stage of the trial which is in teeth of the principles under which amendment is to be allowed under Order VI Rule 17 of the Code of Civil Procedure. It is also submitted that in case this Court is not inclined to interfere in the matter, respondents/petitioners herein may be allowed opportunity to file an additional written statement. The learned Trial Court may be directed to conclude the trial within a timeframe.

4. I have considered the submission of learned counsel for the petitioner and referred to the relevant facts and circumstances and the events leading to passing of the impugned order.

Though in the first round of litigation, it is true that the amendments proposed by the plaintiff after conclusion of evidence were not allowed by the learned Trial Court, but upon remand by the Apex Court without expressing any opinion on the merits, the learned Trial Court has held that the first amendment relating to measurement of the suit land from 10 gandas to 5 ganda in Mouja Teliamura in Khatian No.1939/1 would not prejudice any of the parties if the area is correctly described. On the second proposed amendment, the learned Trial Court was also of the view that the dates 30.09.2014 and 31.12.2015 are available in the original plaint and would not amount to introducing a new cause of action. As such, the learned Trial Court was of the view that the proposed amendment will be helpful for determination of the real controversy in the suit and would not change the nature and character of the suit.

5. True it is that the nature and character of the suit is not going to be changed by these amendments though the amendments have been sought to be carried out after closure of evidence and arguments. However, since the nature and character of the suit is not going to be changed and that the ultimate purpose of any such litigation is the quest for truth, the opinion of the learned Trial Court does not appear to suffer from jurisdictional error which should be interfered in exercise of the powers under Article 227 of the Constitution of India. At this stage, also taking into account the above circumstances, any further litigation on the point is going to ultimately delay the trial of the suit which would affect the interest of both the parties. As such, this Court is not inclined to interfere in the impugned order allowing the amendment in the

plaint. However, if the respondent seeks an opportunity to file additional written statement, learned Trial Court would consider granting one opportunity to the respondents/petitioners herein. Needless to say, the Trial Court would henceforth proceed to dispose of the suit in an expeditious manner preferably within a period of 4(four) months from the date of receipt of copy of this order. Let it also be made clear that none of the parties should be allowed unnecessary adjournments to avoid delay in the adjudication of the main suit.

6. The instant petition is disposed of without interfering in the impugned order with the aforesaid observations. Pending application(s), if any, shall also stand disposed of.

**(APARESH KUMAR SINGH), CJ**