

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.386 OF 2015**

Shri Shrinivas Prabhu Dessai Petitioner

V/s

Mr. Pravin Naik Respondent

Shri S. Shet, Advocate for the Petitioner.

CORAM : K.L. WADANE, J.

Reserved on : 18th NOVEMBER, 2015
Pronounced on: 20th NOVEMBER, 2015.

ORDER :

Present petition is filed by the original plaintiff challenging the order passed by the IInd Additional Adhoc Senior Civil Judge, Margao in Regular Civil Suit No.184/2013/II dated 16/01/2015 by which the application for amendment of the plaint is rejected. Hence, the present petition.

2. The petitioner filed a suit for recovery of certain amount against the respondent and in the plaint in para nos.7 & 8 he has contended as follows:

7. The plaintiff states that the defendant informed the plaintiff that he would meet him in their office, that is L.I.C. Office at Margao Goa on 9/05/2012 and that the plaintiff could hand over the money to him at the office.

8. The plaintiff states that accordingly on 9/05/2012 the plaintiff met the defendant in the office in the presence of Shridhar Prabhu Gaonkar who is a relation of the plaintiff and an amount of Rs.80,000/- was handed over to the defendant.

3. The plaintiff wants to amend the date of his proposed meeting/meeting with the defendant to 9/02/2012 instead of 9/05/2012. According to the plaintiff, there was a typing mistake which he realised only when he was prepared to give the evidence. In the Trial Court such proposed amendment was opposed.

4. I have heard the arguments of Mr. S. Shet, the learned Counsel appearing for the petitioner/plaintiff. The respondent was served by the notice before admission. However, he remained absent. Then a fresh notice was issued to the respondent for final disposal of the petition. Same was also served but inspite of service of notices he remained absent.

5. From the contents of the petition, it appears that the petitioner/plaintiff wants to amend the date which is written as 9/05/2012 to such date as 9/02/2012. Due to the proposed amendment no nature of the pleadings or the claim of the plaintiff will be changed. It is stated by

the learned Counsel for the petitioner that the evidence of the plaintiff is already over. In such circumstances, after the amendment, if the opportunity is given to the defendants to cross-examine the plaintiff then no prejudice will be caused to the defendant. Hence, considering the above circumstances, I am of the opinion that the proposed amendment being due to the typing mistake can be allowed.

6. Hence, the petition is allowed. The order dated 16/01/2015 passed by the Second Additional Adhoc Senior Civil Judge is hereby set aside. Needless to say that after the amendment the defendant is at liberty to cross-examine the plaintiff. With these observations the Writ Petition is disposed of.

K.L.WADANE, J.

NH/-