

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NOS.947 & 948 OF 2015****WRIT PETITION NO.947 OF 2015**

MITSUI O.S.K. LINES, THROUGH ITS
MR.GAURAV GUPTA.

... PETITIONER

V/S

SHRI RUDOLF FERNANDES AND ANR.

...RESPONDENTS

AND

WRIT PETITION NO.948 OF 2015

M/S.JFE STEEL CORPORATION,
THROUGH ITS REPRESENTATIVES
MR. A. K. GUPTA.

... PETITIONER

V/S

SHRI RUDOLF FERNANDES AND ANR.

... RESPONDENTS

Shri Jatin Ramaiya and Shri Ivan Santimano,
Advocates for the Petitioners.
Shri V. Menezes, Advocate for the Respondents.

CORAM : C.V. BHADANG, J.

DATE : 10th JUNE, 2016

ORAL ORDER :

Both these petitions arise out of the order dated 27/01/2015 whereby the learned Trial Court has allowed the application filed by the respondents/original plaintiffs, for amendment of the plaint.

2. The brief facts are that the respondents

have filed Special Civil Suit No.2/2012/A for compensation and damages which is pending before the learned Senior Civil Judge at Panaji. The suit was originally filed against National Insurance Company Ltd. (Defendant No.1) and M/s. Hiralal and Company (Defendant No.2). The second defendant was the local agent of the vessel concerned. According to the respondents the second defendant in written statement had disclosed the names of the owner, the charterer, consignor and the consignee of the goods which were to be carried by the vessel. On coming to know of the said particulars the respondents filed two applications; one for impleadment and the other for consequent amendment to the plaint. By virtue of the impleadment application M/s. Erica Navigation (the owner of the vessel), M/s. JFE Steel Corporation (charterer), M/s. Chowgule Brothers Pvt. Ltd. (the consignor) and Mitsui O.S.K. Lines (the consignee) were impleaded respectively as defendant nos.3 to 6 in the suit. By a separate

order the application for amendment also came to be allowed.

3. Writ Petition No.947/2015 is filed by the defendant no.6 while Writ Petition No.948/2015 is filed by the Defendant No.4 challenging the order allowing the amendment.

4. The learned Counsel for the petitioner in all fairness has stated that they are not challenging the order directing their impleadment. The only contention raised is that the amendment is belated as the suit was filed in the year 2012 and the application for amendment was moved in the year 2015 while the incident which gave rise to the suit had occurred in the year 2009. He, therefore, submits that the question of limitation would arise in the matter.

5. The learned Counsel for the respondents has supported the impugned order. It is submitted

that the amendment is consequent to the impleadment which was necessitated on account of the second defendant disclosing the names of the charterer and the consignee. It is thus denied that the application was belated.

6. I have considered the circumstances and the submissions made and I do not find that any case for interference is made out. It is evident that the petitioner shall be entitled to raise all contentions as may be available to him in law, including the question of limitation, before the Trial Court and the Trial Court shall decide the question whether amendment would relate back to the filing of the suit.

7. Subject to this, the Writ Petitions are disposed off, with no order as to costs.

C.V. BHADNAG, J.

NH