

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2147/2019

M/s. Tanish Associates	... Petitioner
V/s.	
Pravin m. Tapkir & Ors.	... Respondents

Mr. Onkar V. Warange for the Petitioner
Mr. Madhav Jamdar I/b. Kunal Naik for Respondent Nos.1 and 2.

CORAM: K.K. TATED, J.
DATED : FEBRUARY 22, 2019

P.C. :

1 Heard. By this petition under Article 227 of the Constitution of India the Petitioner – Defendant challenges the order dated 18.07.2018 passed by the 7th Jt. Civil Judge, Senior Division below Exhibit- 36 in Special Civil Suit No. 1370/2015 allowing the Application made by the Respondent – Plaintiff's for carrying out amendment under Order 6 Rule 17 of the Code of Civil Procedure, 1908.

2 The learned counsel for the Petitioner – Defendant submits that earlier the Plaintiff had made Application dated 06.10.2016 for carrying out amendment in the plaint which was allowed by the court. Again, second time, the Plaintiff made an Application for amendment of the plaint. He further submits that by the present amendment, the Plaintiff wanted to claim the compensation @ Rs. 2 lacs pm instead of Rs.1 lac pm. He submits that this cannot be treated as a typographical error in the plaint. He submits that because of this amendment, the entire structure of the suit is going to change. Therefore, this Hon'ble Court be pleased to set aside the impugned order dated 18.07.2018 and

dismiss the Respondent's Application below Exhibit- 36 under Order 6 Rule 17 of the Code of Civil Procedure, 1908

3 On the other hand, the learned counsel for the Respondent Plaintiff has vehemently opposed the Writ Petition. He submits that the Trial Court has specifically recorded in the impugned order that by way of amendment, the Plaintiff wants to correct the clerical/typographical error in the plaint. Therefore, there is no substance in the Writ Petition.

4 Heard the learned counsel for the parties. Bare reading of the Application made by the Plaintiff below Exhibit- 36 shows that the Plaintiff wanted to correct the figure of Rs.2 lac in place of Rs.1 lac. It is to be noted that even in the agreement between the parties, it is specifically stated that the Plaintiff is entitled to compensation @ Rs.2 lacs pm. Considering these facts the Trial Court had allowed the Application made by the Plaintiff for amendment in the plaint.

5 Bare reading of the Application made by the Plaintiff and also the impugned order shows that the Trial Court has accepted the Plaintiff's version that there was typographical error in the plaint. Therefore, there is no question to entertain the Writ Petition to set aside the well reasoned order passed by the Trial Court.

6 Hence, the Writ Petition stands rejected. No order as to costs.

(K. K. TATED, J.)