

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.3053 of 2019

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the revision petitioner/defendant aggrieved by the order, dated 22.11.2019, passed in I.A.No.705 of 2018 in O.S.No.269 of 2019 (old O.S.No.39 of 2014) by the IV Additional District Judge, Nalgonda, wherein the subject Interlocutory Application filed under Order VI Rule 17 of the Code of Civil Procedure, 1908, to permit the revision petitioner/defendant to carry out the amendment in the written statement at para No.3, line Nos. 9 and 10, 5th line of page No.2 and 6th line of para No.5, was dismissed.

2. Heard the learned counsel for the revision petitioner/defendant and learned counsel for the respondent/plaintiff and perused the record.

3. Learned counsel for the revision petitioner/defendant would submit that the subject amendment is with regard to insertion of certain words in the written statement. They are only typographical mistakes, which occurred due to over sight. If the said amendment is allowed, it would not alter the nature of the subject suit. The Court below erroneously dismissed the subject Interlocutory Application and ultimately, prayed to set aside the impugned order and allow I.A.No.705 of 2018 as prayed for.

4. On the other hand, learned counsel for the respondent/plaintiff would submit that the amendment sought by the revision petitioner/defendant is at belated stage i.e., after commencement of trial of the subject suit. The Court below is justified in dismissing the subject Interlocutory Application and ultimately, prayed to uphold the impugned order and dismiss the Civil Revision Petition.

5. In view of the submissions made by both the parties, the point that arises for determination is:

“Whether the amendment sought by the revision petitioner/defendant in the subject Interlocutory Application No.705 of 2018 can be allowed?”

6. Admittedly, the subject suit O.S.No.269 of 2019 (old O.S.No.39 of 2014) on the file of IV Additional District Judge, Nalgonda, is filed by the respondent/plaintiff, basing on a promissory note, dated 20.03.2011, said to have been executed by the revision petitioner/defendant in favour of the respondent/plaintiff, for a sum of Rs.27,50,000/-. The subject suit is of the year 2014, whereas the subject Interlocutory Application to amend the written statement was filed belatedly after commencement of trial of the subject suit. The amendment sought in the written statement is as follows:

“Missing words “the brother-in-law of” in line Nos.9 & 10 before the word “plaintiff” in both the line Nos.9 & 10 of para No.3 of written statement of the petitioner when counted from top to bottom of the said para are to be placed before the words “the plaintiff” in line Nos.9 & 10 of para No.3 of written statement of the petitioner

when counted from top to bottom. So also the word “required” appearing in between the words “the plaintiff” and “the defendant” in 5th line of page No.2 of written statement of the petitioner is to be substituted with the word “requested”. Further the word “note” is missing in 6th line of para No.5 of written statement of the petitioner after the word “promissory” and as such said word “note” is to be placed after the word “promissory” in the said 6th line of para No.5 of written statement of petitioner.”

7. The amendment sought in the written statement is with regard to certain omissions and additions to convey proper meaning of the defence set up by the revision petitioner/defendant. It appears from the affidavit filed in support of the subject Interlocutory Application that inadvertently some typographical/clerical mistakes have crept in the written statement and those are sought to be corrected by way of amendment. Under these circumstances, it is appropriate to refer to the decision of the Hon'ble Apex Court reported in B.K.Narayana Pillai v. Parameswaran Pillai & another¹, wherein it is held thus:

“The purpose and object of Order 6, Rule 17 CPC is to allow either party to alter or amend his pleadings in such manner and on such terms as may be just. The power to allow the amendment is wide and can be exercised at any stage of the proceedings in the interest of justice and that the Courts while deciding such prayers should not adopt hyper technical approach. Liberal approach should be the general rule particularly in cases where the other side can be compensated with the costs. Technicalities of law should not be permitted to hamper the courts in the administration of justice between the parties.”

¹ (2000) 1 SCC 712

8. Though the subject Interlocutory Application is filed belatedly i.e., after more than four years, those insertions are necessary for just, complete and effective adjudication of the subject matter of the suit. The amendment do not set up a new cause of action or alter the nature of subject suit. Whether the revision petitioner/defendant got acquaintance with the respondent/plaintiff through the brother-in-law of the revision respondent/defendant or otherwise, will not materially alter the nature of the suit in between the parties to the litigation. In the given circumstances, Court below ought to have allowed the amendment, as sought by the revision petitioner/defendant. Under these circumstances, the impugned order is liable to be set aside.

9. Accordingly, the Civil Revision Petition is allowed setting aside the order, dated 22.11.2019, passed in I.A.No.705 of 2018 in O.S.No.269 of 2019 (old O.S.No.39 of 2014) by the IV Additional District Judge, Nalgonda. Consequently, I.A.No.705 of 2018 is allowed as prayed for. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this revision petition shall stand closed.

Dr. SHAMEEM AKTHER, J

18th February, 2020

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THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER



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Date:18.02.2020

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