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**In the High Court at Calcutta
Civil Revisional Jurisdiction
Appellate Side**

**C.O. No. 3799 of 2017
(Assigned)**

**C. Mackertich Limited
-Vs.-
Larsen & Tubro Limited & Ors.
(Via Video Conference)**

Ms. Jyoti Singh
...for the petitioner

Mr. Promod Kumar Bagaria,
Ms. Neelina Chatterjee,
Mr. Suvodeep Chakraborty
...for the opposite parties

Learned counsel for the petitioner contends that the trial court acted without jurisdiction in rejecting the amendment application of the petitioner under Order VI Rule 17 of the Code of Civil Procedure primarily on the ground that the petitioner had approached the trial court with such application after more than twelve years of filing of the suit.

It is argued that the alleged delay was explained by the petitioner in the amendment application itself, according knowledge of the petitioner to a date immediately prior to the date of filing of the application.

That apart, it is argued that the delay in filing the amendment application, even if any, *ipso facto* cannot be a justified ground for rejecting a necessary amendment.

Learned counsel appearing for the opposite parties controverts such submissions.

Upon hearing learned counsel for the parties, it appears from the averments made in paragraph 3 of the amendment application that the knowledge of the plaintiff/petitioner about the change of name of the concerned defendant was attributed to October 22, 2016, whereas the date of verification of the amendment application appears to be June 16, 2017, which does not tally on the aspect of immediacy, as argued by the petitioner. That apart, the annexure filed in connection with the amendment application, as annexed to the present revisional application, indicates that the petitioner had a communication on May 25, 2016 in respect of the change of name of the concerned respondent. It is explained by learned counsel for the petitioner that the said communication was uploaded subsequently, immediately prior to the date of knowledge of the petitioner.

Be that as it may, although there are some discrepancies in the various dates mentioned

with regard to knowledge of the petitioner, that is, October 22, 2016 and verification of the amendment application (June 16, 2017), such delay, even if any, could not lead to the rejection of the amendment application, since the amendment sought is necessary for a proper and complete adjudication of the *lis*.

Since the petitioner was permitted by this Court to amend the cause title of the revisional application by incorporating the altered name of defendant/opposite party no. 2, a notice was also served on the said added opposite party, as per submission of learned counsel for the petitioner, which would preclude any further requirement of service on the added opposite party as regards the revisional application.

In such view of the matter, since the purported delay in filing the amendment application was somewhat explained in the application under Order VI Rule 17 of the Code itself and since delay itself cannot be a sufficient ground for refusing a necessary amendment, C.O. No. 3799 of 2017 is allowed, thereby setting aside Order No. 59 dated June 16, 2016, passed by learned Judge, Seventh Bench, City Civil Court at Calcutta in Title Suit No. 1150 of 2004 and allowing the application for amendment to the

plaint of the said suit, filed by the plaintiff/petitioner in the court below, without any order as to costs.

The trial court shall now proceed on the footing that the amendment was allowed and permit the petitioner to carry out the necessary consequential amendment in the plaint of the suit and to pass necessary orders for service of notice of the suit on the added respondent and for filing of written statement (if not already filed), alternatively additional written statement, as applicable.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

The petitioner shall file an affidavit-of-service as regards service on the added opposite party no. 2 during the course of the day.

(Sabyasachi Bhattacharyya, J.)