

Vinita

IN THE HIGH COURT OF BOMBAY AT GOA.

WRIT PETITION NO. 282 OF 2022

ARTI DEVI PRASAD @ ARTI DEVIPetitioner.
PEREIRA

VS

ATLEE PEREIRA AND ANR.Respondents.

Ms. A. Tirodkar, Advocate for the petitioner.

CORAM: G. S. KULKARNI, J.

DATE: 7 DECEMBER 2022.

P.C.:

1. Heard learned Counsel for the petitioner.
2. The order impugned in this petition is an order dated 22 March 2022 passed by the learned Ad-hoc Senior Civil Judge “B” Court, Panaji, on an application as made behalf of the petitioner/defendant in the proceedings bearing Special Civil Suit No.41/2016/B praying for amendment of the written statement which came to be granted by an order dated 26 November 2021. Subsequent to the said amendment application being granted, on 1 December 2021. The petitioner moved an application in question praying that the petitioner/defendant be allowed to correct typographical errors in numbering of the paragraphs in the amendment as sought to be carried out in the written

statement, and prayed for an extension of time to carry out amendments in the written statement. The petitioner's/defendant's application was formally opposed by the plaintiffs by making an endorsement stating that the application for amendment has already been granted on 26 November 2021, in view of the same, the present application had become infructuous as the amendment sought to be made are to the application for amendment filed on 11 February 2020 which was granted. Hence, application be dismissed.

3. On such backdrop, the impugned order came to be passed whereby the application of the petitioner/defendant has been rejected in terms of the following order:-

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Heard both Ld. Counsel. Since the Amendment Application has been already disposed off at Exhibit D-19. Hence, the question of interfering with the said Application doesn't arise as no provision for Amending the Amendment Application after its disposal. The Defendant will have to amend the W.S. As per order on Exhibit D-19 & thereafter file necessary amendment application u/o VI Rule 17 CPC.

In view of the above I pass the following:

ORDER

*The application for correcting disposed Amendment Application at Exhibit D-23 stands dismissed.
Pronounced in open Court.”*

4. In my opinion the learned trial Judge in rejecting the said application by the impugned order has taken a too technical view of the matter. No prejudice whatsoever could have been caused to the respondents/plaintiffs, if the typographical errors were permitted to be corrected in numbering the paragraphs in the written statement. No substantive relief was prayed by the petitioner which would cause any prejudice to the plaintiffs if such numbering was permitted to be corrected, moreso when the amendment was already permitted. Further, even in passing the present order no prejudice would be caused to the respondents/plaintiffs, bearing in mind the interest of justice that on such short issue proceedings ought not to be kept pending awaiting service on the respondents/plaintiffs. It is hence desirable that the petition is disposed of.

5. In the aforesaid circumstances, the impugned order is required to be set aside and is accordingly set aside. Application of the petitioner/defendant dated 1 December 2021 for correcting typographical errors in numbering of the paragraphs in the amendment to the written statement is granted. Let such corrections so also the amendment be carried out within three weeks from today.

6. All contentions of the parties including those of the plaintiffs on the merits of the suit are expressly kept open. No costs.

G. S. KULKARNI,J.

VINITA VIKAS NAIK Digitally signed by VINITA VIKAS NAIK
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