

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION**

**INTERIM APPLICATION NO. 880 OF 2020  
IN  
SUIT NO. 1294 OF 1992**

ANJALI  
TUSHAR  
ASWALE

Digitally signed by  
ANJALI TUSHAR  
ASWALE  
Date: 2023.05.02  
15:13:00 +0530

Pratapsingh V.Udeshi

..Applicant/Orig.Plaintiff

***Versus***

Hindustan Electro Metallics & Ors ..Defendants

And

Maharashtra Industrial Development  
Corporation & Ors

..Respondents  
/Prop.Defendants

---

***Mr.Chetan Kapadia, Senior Advocate, with  
Mr.Yuvraj K. Singh i/b Rohan Kharat, Advocates for the  
Applicant/Orig.Plaintiff.***

***Mr.Amit Singh, with Ms. Shivani Deshmukh, Kabeer  
Pansare i/b Abhay Nevagi & Associates, Advocates for  
Respondent No.3.***

***Mr. Prashant Chavan,with Shraddha Cheeda i/b  
Navdeep Vora & Associates, for Prop. Respondent No.1 in  
IA.880/20.***

---

**CORAM : B. P. COLABAWALLA, J**

**DATE : APRIL 28, 2023**

**P.C.**

The above application is filed seeking amendment of the Plaint as per the Schedule annexed thereto. The amendments sought are quite substantial. The ground for seeking these amendments is that all this information came to the knowledge of the Plaintiff only when they discovered that Defendant No.3 had,

despite the injunction order, parted with possession and/or created third party rights in relation to the Suit property. It is thereafter, that they made applications to MIDC under the provisions of the Right to Information Act, 2005, and obtained the documents on the basis of which the present amendments are sought.

2           The learned counsel appearing on behalf of Defendant No.3 opposed the amendment on the ground that what the Plaintiff now seeks to bring on record, including the documents which they have obtained under the Rights to Information Act, 2005, ought to have been done by the Plaintiff long back and the present amendment is sought only to delay the proceedings.

3           I have heard the learned counsel for the parties at some length. I have also gone through the amendments that are sought to the Plaint. The body of the amendments are set out in the Schedule which starts from page 13 of the paper book and finish at page 73. The documents that are sought to be brought on record thereafter starts from page 74 up to page 247. I find that these amendments are of facts that came to the knowledge of the Plaintiff only after the filing of the Suit. In fact, some of the

amendments relate to certain developments that have taken place after the filing of the Suit. It is also a pre-trial amendment and in my opinion would be necessary to finally adjudicate the disputes between the parties. It also does not change the nature of the cause of action pleaded in the Suit. In these circumstances, I am of the opinion that the Plaintiff ought to be allowed to amend the Plaintiff.

4. I must mention that whilst going through the Schedule, it was pointed out to me that there are quite a few prayers that are sought to be added which are repetitive in nature. In answer to this, Mr. Kapadia, the learned Senior counsel appearing on behalf of the Plaintiff, has stated that in Clause XXXI, prayer clause (a) (i) need not be granted. Similarly, in Clause XXXI, prayer clauses (aa), (aa) (i) and (aa)(ii) also need not be granted. Mr. Kapadia has further stated that Clause XXXIV and XXXV in their entirety (page 65 of the paper book), need not be granted.

5 In these circumstances, the amendment application is allowed and the Plaintiff is permitted to amend the Plaintiff as per the Schedule annexed to the Interim Application subject to what is

mentioned above. The amendments shall be carried out on or before 9<sup>th</sup> June, 2023 and a copy of the amended Plaint and proceedings shall be served on the advocates for the Defendants, including the newly added Defendants within a period of two weeks thereafter. The Defendants are at liberty to file their Written Statement/s Additional Written Statement/s to the amended copy of the Plaint within a period of six weeks from the date of service of the same on the respective advocates.

6           The Interim Application is disposed of in the aforesaid terms. However, there shall be no order as to costs.

7           This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

**[ B. P. COLABAWALLA, J ].**