



A.No.1328 of 2023
in C.S.(Comm. Div.)No.147 of 2022

WEB COPY

S.SOUNTHAR, J.

This application has been filed by the applicant/plaintiff seeking amendment of the plaint.

2. The learned counsel for the applicant by taking this Court to the averments found in the affidavit filed in support of this amendment application submitted that certain payments made by the applicant/plaintiff in favour of the third parties on behalf of the defendant were not included in the suit claim, inadvertently. It is stated by the applicant that the bill amount settled on various dates mentioned in the affidavit were not brought to the notice of the applicant by the person, who handled the same in the work site. The amount settled to various persons is substantial amount come to the tune of Rs.49,25,461/-. If the said amount is not included in the suit claim, it would result in miscarriage of the justice.

3. The learned counsel for the respondent/defendant filed the counter affidavit and opposed the amendment application mainly on the two



grounds. Firstly, it is the case of the respondent that the amendment application has been filed belatedly at a later stage of the proceedings.

Secondly, it is the case of the respondent that the claim which is sought to be included by the applicant by way of amendment was very well available to the applicant/plaintiff even at the time of filing of the Original Plaint. Therefore, the new claim which is sought to be included by the applicant is barred under Order II Rule 2 of Civil Procedure Code, 1908.

4. It is seen from the records that the respondent herein filed its written statement with a delay, only during January 2023 and the petition to condone the delay in filing the written statement was allowed by this Court on 30.01.2023. Therefore, the first submission made by the learned counsel for the respondent that the present amendment application has been filed with enormous delay at a later stage of the proceedings cannot be accepted. Admittedly, the trial in the suit is yet to begin. It is settled law that the delay in filing the amendment application is not a ground to reject the amendment application. The very object for permitting amendment of the plaint is to have comprehensive adjudication of the dispute between the parties. As far



as the second contention raised by the learned counsel for the respondent that the new claims sought to be introduced by way of amendment is barred by under Order II Rule 2 of Civil Procedure Code is concerned, the respondent can raise the said contention in their additional written statement and the same can be considered at the time of final disposal of the suit.

5. In view of the same, this Court is inclined to allow this amendment application. The application in A.No.1328 of 2023 to amend the plaint is allowed. The applicant/plaintiff is granted two (2) weeks time to carry out the amendment and furnish the amended copies of the plaint.

15.06.2023

nti



WEB COPY



4

S.SOUNTHAR, J.

nti

A.No.1328 of 2023
in C.S.(Comm. Div.)No.147 of 2022

15.06.2023