

S/L 22
10.9.2024
Court No.19
SD

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO 3156 of 2024

Sri Asish Chakraborty

Vs.

Royal Calcutta Turf Club & Ors.

Mr. Ayan Banerjee
Mr. Tarun Kumar Aich
Mrs. Tanusri Sur (Aich)

...for the Petitioner.

Mr. Ranjay De
Mr. Basabjit Banerjee
Mr. Adityajit Ahel Bose

...for the Opposite Parties.

Affidavit of service filed on behalf of the petitioner be kept with the record.

The petitioner is the plaintiff of the connected *Title Suit No.1333 of 2016* which is pending before the learned Judge, 4th Bench, City Civil Court at Calcutta.

The legality and propriety of the termination of the service of the petitioner with the defendants is under challenge in the said suit.

The petitioner in the said suit is also praying a decree of damages.

The petitioner had filed an application under Order VI Rule 17 of the Code of Civil Procedure in the said suit for amendment of the plaint.

The learned Trial Judge by the order impugned being Order No.67 dated June 14, 2024 has dismissed the said application *inter alia* on the ground that the trial of the suit has commenced.

Mr. Ayan Banerjee, learned advocate for the petitioner submits that by the proposed amendment, the petitioner had prayed for amendment of the plaint to incorporate subsequent events in the plaint, as such, the restriction of the proviso appended to Order VI Rule 17 of the Code in allowing the prayer for amendment of pleadings after commencement of the trial of the suit is not applicable in the present case. He further submits that the amendment sought for is necessary to quantify the damages as prayed for.

Mr. Ranjay De, learned advocate for the defendants, the opposite parties herein on the other hand submits that the amendment sought for is more of in the nature of evidence than pleadings and the petitioner has already proved documentary evidences in support of his claim in course of his evidence.

Heard learned advocates for the parties, perused the materials on record.

The plaintiff was in employment of the defendant no.1 and after the termination of his service, he joined two services.

The golden rule is that the *evidence need not be pleaded*; but the plaintiff by the proposed amendment has sought to bring pleadings to give description of the documents regarding his salary and other financial benefits in relation to his said two services.

In fact, the defendant in course of his evidence has already proved several documents relating to his income in the said two services; in view of such position of the matter, the amendment as sought for is not necessary, particularly when the trial of the suit has commenced.

The order impugned for the aforesaid reason(s) does not call for any interference.

The learned Trial Judge is requested to expedite the disposal of the suit and in doing so, shall not grant any unnecessary adjournment to either of the parties.

CO 3156 of 2024 is dismissed without any order as to costs.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent Photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Biswajit Basu, J.)