



\$~74, 84 & 86

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of decision: 22nd July, 2024*

+ CM(M) 2970/2024 & CM APPL. 40732/2024

JOS CHIRAMEL

.....Petitioner

Through: Mr. Ramesh Kumar with Mr. Sarthak
Sharma, Advocates.

versus

NATIONAL HIGHWAYS AUTHORITY OF INDIARespondent

Through: Mr. Kartikay Yadav, Standing
Counsel for NHAI

+ CM(M) 2981/2024 & CM APPL. 40851/2024

JOS CHIRAMEL

.....Petitioner

Through: Mr. Ramesh Kumar with Mr. Sarthak
Sharma, Advocates.

versus

NATIONAL HIGHWAYS AUTHORITY OF INDIARespondent

Through: Mr. Kartikay Yadav, Standing
Counsel for NHAI

+ CM(M) 2983/2024 & CM APPL. 40874/2024

JOS CHIRAMEL

.....Petitioner

Through: Mr. Ramesh Kumar with Mr. Sarthak
Sharma, Advocates.

versus

NATIONAL HIGHWAYS AUTHORITY OF INDIA & ORS.

.....Respondents

Through: Mr. Kartikay Yadav, Standing
Counsel for NHAI



CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Learned Standing Counsel for respondent/NHAI appears on advance notice and accepts notice.
2. Similar matter was taken up by this Court earlier on 04.07.2024 while dealing with CM(M) 2846/2024.
3. Said matter was also essentially between the same parties and the impugned order is also verbatim.
4. While taking up said petition, this Court had set aside the impugned order and made certain observations.
5. It will be appropriate if the aforesaid order is extracted herein:-

"4. Petitioner herein had filed a suit seeking recovery of Rs.16 lacs approximately. However, when the matter was at the stage of arguments on the aspect of territorial jurisdiction, the learned Trial Court, exercising its power under Order VI Rule 16 CPC, suo moto, directed the plaintiff to file plaint afresh directing it to be containing only five pages, instead of 45 pages.

*5. The impugned order is very short and is extracted as under:-
"Matter is at the stage of arguments on the aspect of territorial jurisdiction. The plaint in this case runs to 45 pages. This Court can't settle the issues because of such a lengthy pleadings.*

Provisions of Order VI Rule 16 CPC provides striking out the pleadings. Order VI Rule 16 CPC is reproduced as under:

***"Order VI Rule 16 CPC: Striking out pleadings:
The Court may at any stage of the proceedings
order to be struck out or amended any matter in
any pleading-***

***(a) which may be unnecessary, scandalous,
frivolous or vexatious, or***

***(b) which may tend to prejudice, embarrass or
delay the fair trial of the suit, or***

***(c) which is otherwise an abuse of the process of
the Court."***



By exercising my power under Order VI Rule 16 of the CPC the plaintiff is directed to file a plaint which contains only the FIVE pages. Let the plaintiff comply with the directions of this Court and let him to restrain the plaint within the five pages only.

Case adjourned to 09.09.2024.”

6. *Learned Trial Court did extract the relevant Rule, i.e, Order VI Rule 16 CPC but a bare perusal of the aforesaid Rule would indicate that direction regarding striking off any averment in the pleadings can be made if such averment is found to be unnecessary, scandalous, frivolous, vexatious or which tends to prejudice, embarrass or delay the fair trial of the suit or which is otherwise an abuse of the process of the Court.*

7. *In the case in hand, the learned Trial Court has merely observed that the plaint was running into 45 pages and, therefore, it was unable to settle the issues.*

8. *This is never the intended objective behind striking off the pleadings.*

9. *Undoubtedly, any suit needs to be concise and should contain only the relevant details. It is rightly said that brevity is the soul of wit. But that does not mean that any Court would direct any plaintiff to file a plaint containing only five pages. At times, it may not be, even otherwise, possible to mention all the relevant details within the above limit.*

10. *It is noticed that the learned Trial Court has not indicated whether any part of the pleading was unnecessary, scandalous, frivolous, vexatious or tend to prejudice, embarrass or delay the fair trial of the suit or was abuse of process of the Court. The order has been passed, merely, because of the fact that the plaint was little lengthy.*

11. *Reference be made to the judgment in Ajay Arjun Singh vs. Sharadendu Tiwari & Ors.: (2016) 15 SCC 219, wherein the Hon'ble Supreme Court has observed as under:-*

“4. Before we examine the various questions that arise in this appeal, we think it profitable to examine the scheme of Order 6 Rule 16.

“16. Striking out pleadings.—The Court may at any stage of the proceedings order to be struck out or amended any matter in any pleading—

(a) which may be unnecessary, scandalous, frivolous or vexatious, or

(b) which may tend to prejudice, embarrass or delay the fair trial of the suit, or



(c) which is otherwise an abuse of the process of the Court.”

*It authorises the court to order that any matter in any pleading before it be struck out on the grounds specified under clauses (a), (b) and (c). Each one of them is a distinct ground. For example, clause (a) authorises the court to strike out the pleadings which may be (i) unnecessary, (ii) scandalous, (iii) frivolous, (iv) vexatious. If a pleading or part of it is to be struck out on the ground that it is unnecessary, the test to be applied is whether the allegation contained in that pleading is relevant and essential to grant the relief sought. Allegations which are unconnected with the relief sought in the proceeding fall under this category. Similarly, if a pleading is to be struck out on the ground that it is scandalous, the court must first record its satisfaction that the pleading is scandalous in the legal sense and then enquire whether such scandalous allegation is called for or necessary having regard to the nature of the relief sought in the proceeding. The authority of the court under clause (c) is much wider. Obviously, such authority must be exercised with circumspection and on the basis of some rational principles. The very purpose of the Rule is to ensure that parties to a legal proceeding are entitled *ex debito justitiae* to have the case against them presented in an intelligible form so that they may not be embarrassed in meeting the case.”*

12. In view of the aforesaid, the impugned order is set aside.

13. However, it would still be open to learned Trial Court to, again, invoke its powers under Order VII Rule 16 CPC but if the Court chooses to exercise such power then keeping in mind the intended objective behind such provision, it is expected that it would give reason specifying as to which part was required to be struck off and why.

14. The petition stands disposed of in aforesaid terms.”

6. Since the impugned order is virtually the same in the present three petitions, all the three petitions are also disposed of in the same manner and the impugned order dated 04.05.2024 is set aside.

7. It is reiterated that it would still be open to learned Trial Court to, again, invoke its powers under Order VII Rule 16 CPC but



if the Court chooses to exercise such power then keeping in mind the intended objective behind such provision, it is expected that it would give reason specifying as to which part was required to be struck off and why.

8. All the three petitions stand disposed of in the aforesaid terms.

(MANOJ JAIN)
JUDGE

JULY 22, 2024
st