

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO. 372 OF 2025
IN
SUIT NO. 224 OF 2024

Vanechand Velji Gala

...Applicant/Plaintiff

Vs.

Mangal Buldhome Private Limited

...Defendant

Adv. Bhavin Gada a/w Nameet Karani i/by Harakhch and Co. for the Applicant.

Adv. Pankaj Jain a/w Pradeep Purohit i/by P. D. Jain & Co. for the Defendant.

CORAM : ARIF S. DOCTOR, J.

DATE : 24TH FEBRUARY, 2025

P.C.:-

1. The captioned Interim Application is not on board. Taken on board.
2. The captioned Interim Application is filed for amendment. The Applicant has filed the captioned Suit for various orders and directions essentially seeking compliance with the terms and conditions of the Intimation of Disapproval (IOD) dated 29th November, 2023 in particular condition No.25 of the said IOD. The Plaintiff claims entitlement to a rehab shop in view of the Suit premises and also for that purpose seeks execution of a PAAA Agreement. The Suit had described the area of the rehab shop to be 483.84 sq. ft., whereas by way

of the present amendment, the area of the said shop stands reduced to 463.84 sq. ft. Additionally, the Plaintiff had also claimed rent and hardship compensation in the amount of Rs.11,59,60,000/–, however, the same is now being revised to a sum of Rs.5,49,25,000/–. It is submitted that the calculation was on the basis of a mathematical and clerical error and had therefore being incorporated in the Plaintiff. It is to rectify this that the present Interim Application has been filed.

3. Learned Counsel for the Applicant points out that the amendment does not in any manner change the cause of action of the Suit nor does it affect any right of the Defendant. He further submits that the Suit is at a pre-trial stage and given the law that with regards to grant of pre-trial amendment which is to say that the pre-trial amendment should liberally be allowed, the Interim Application be allowed.

4. The Interim Application was opposed by Learned Counsel for the Defendant, who points out that the Interim Application is bereft of any necessary details. He further points out that the Interim Application has been belatedly filed as also statement of claim was never there in the original Plaintiff but has been sought to be introduced by way of the present amendment.

5. Given the fact that this is a pre-trial amendment and in my view does not in any manner change the cause of action, I find that the same deserves to be allowed. The Interim Application being belated also to my mind is

untenable. Learned Counsel for the Defendant did not place reliance upon any law to support his contention as to why an amendment of this nature should not be allowed. In my view sufficient cause has been shown to allow the Interim Application.

6. Interim Application is therefore allowed in terms of prayer clause (a) and (b) which read thus:

“(a) To allow the Applicant/Plaintiff to carry out amendment to the Plaint as per Schedule annexed to this Interim Application;

(b) To order and direct the Applicant/Plaintiff to carry out the amendment within three weeks;”

7. Since the claim in the Suit would now be below Rs.10 crores, same would fall outside the pecuniary jurisdiction of this Court and under Order 7 Rule 10 of the Code of Civil Procedure, 1908, the Plaint would have to be returned and filed before the appropriate Court.

8. Reverification is dispensed with.

(ARIF S. DOCTOR, J.)