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Supreme Court Lays Down Principles On Amendment Of Plaint Under Order VI Rule 17 Of The Code Of Civil Procedure, 1908

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In a recent ruling[1], the Hon'ble Supreme Court of India revisited the principles governing amendment of pleadings under *Order VI Rule 17 of the Code of Civil Procedure, 1908*[2]. A Division Bench comprising C.T. Ravikumar and Sanjay Karol was called upon to examine whether the High Court of Madhya Pradesh, Gwalior Bench had erred in allowing an amendment to the plaint filed by the original plaintiff, despite objections raised by the appellant (original defendant).

The dispute arose in a partition suit where the plaintiff had initially not questioned the validity or genuineness of a Will. Subsequently, after about a year, the plaintiff sought to amend the plaint to challenge the authenticity of the Will, arguing that its validity was central to determining succession rights. Upholding the High Court's decision, the Supreme Court observed that without adjudicating upon the genuineness of the Will, an effective and meaningful partition of the property would not be possible.

Relying on established precedents and interpreting the scope of *Order VI Rule 17 CPC*, the Court proceeded to lay down the following key observations:

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Interpretation of Order VI Rule 17

The Supreme Court, while interpreting *Order VI Rule 17 of the Code of Civil Procedure, 1908*, emphasized that:

- Amendments to pleadings may be permitted at any stage of the proceedings.
- Such amendments must be necessary for determining the "real question in controversy."
- Where an amendment is sought after the commencement of trial, the Court must be satisfied that the party could not have raised the matter earlier despite due diligence.

Precedents Relied Upon

The Court relied on several key judgments to reiterate the governing principles:

- In ***North Eastern Railway Administration v. Bhagwan Das***[3], it was held that courts should adopt a liberal approach while dealing with amendments, though always within the framework of statutory provisions.
- In ***Life Insurance Corporation of India v. Sanjeev Builders Pvt. Ltd.***[4], the Court laid down guiding principles, which can be summarised as follows:

Permissible Amendments:

- Amendments necessary for deciding the real dispute between the parties should ordinarily be allowed.
- Amendments that enable effective adjudication and prevent multiplicity of proceedings are to be encouraged.

Impermissible Amendments:

- Amendments that seek to withdraw clear admissions conferring rights on the opposite party.
- Amendments that take away accrued or vested rights of the other side.
- Amendments that fundamentally alter the nature of the suit.

- Amendments made with mala fide intent.
- Amendments that deprive the opposite party of a valid legal defence.

General Principles:

- Courts should adopt a liberal rather than hyper-technical approach.
- Amendments may be allowed to supply material particulars or introduce an alternative or additional approach.
- However, the cause of action must not be fundamentally altered.

Application to the Present Case

Applying these principles, the Supreme Court observed that the dispute was essentially procedural in nature. It held that the issue regarding the authenticity of the Will raised through the amendment was crucial for determining the rights of the parties in the partition suit. Without adjudicating this issue, effective partition of the property would not be possible.

Accordingly, the Court upheld the decision of the High Court of Madhya Pradesh, Gwalior Bench permitting the amendment.

Conclusion

The ruling reaffirms the Supreme Court's commitment to a liberal and justice-oriented approach in matters of amendment of pleadings under *Order VI Rule 17 CPC.* By allowing the plaintiff to challenge the validity of the Will, the Court underscored that all relevant issues must be brought on record to enable complete and effective adjudication.

At the same time, the judgment carefully balances this flexibility by ensuring that such amendments do not prejudice the rights of the opposing party, thereby preserving procedural fairness alongside substantive justice.

1. Dinesh Goyal @Pappu v. Suman Agarwal (Bindal) & Ors. Arising out of Special Leave Petition (Civil) No.30324/2019. ??
2. Order VI
   17. **Amendment of pleadings**.—The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties: Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial. ??
3. (2008) 8 SCC 511. ??
4. 2022 SCC OnLine SC 1128. ??

Frequently Asked Questions

What is Order VI Rule 17 of the CPC?

Order VI Rule 17 of the Code of Civil Procedure, 1908 allows a civil court, at any stage of the proceedings, to permit either party to alter or amend its pleadings in such manner and on such terms as may be just, where the amendment is necessary to determine the real questions in controversy between the parties.

Can a plaint be amended after the trial has begun?

Generally no. The proviso to Order VI Rule 17 bars amendment of pleadings after the trial has commenced, unless the court concludes that, in spite of due diligence, the party could not have raised the matter before the commencement of trial. Due diligence is therefore the decisive test for amendments sought after trial begins.

When will a court refuse an amendment of the plaint?

Courts ordinarily refuse an amendment that withdraws a clear admission, changes the fundamental nature or character of the suit, sets up a wholly new and inconsistent case, introduces a claim that is already barred by limitation, or is sought mala fide. Amendments that merely help decide the existing controversy are allowed liberally.

What did the Supreme Court decide in Dinesh Goyal v. Suman Agarwal?

The Supreme Court upheld the High Court's order allowing the plaintiff to amend the plaint to challenge the genuineness of a Will in a partition suit, holding that without adjudicating the validity of the Will an effective and meaningful partition of the property could not be decreed.

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