

SUPREME COURT OF INDIA

C.S. Company

Vs.

Kerala State Electricity Board

(K Ramaswamy and G Pattanaik JJ.)

29.10.1996

ORDER

This special leave petition arises from the order of the learned single judge made on August 2, 1996 in CRP No. 476/96.

The admitted position is that the respondent had filed the suit for settlement of accounts on the basis of a contract dated may 12,1983. He also sought for decree jointly and severally against the defendants 2 to 4 or against their estate for the amount due; for a declaration that the respondent is entitled to recover all the loss the damages form defendants and their assets when the same was ascertained, as been filed on February 15,1995 under Order VI, Rule 17, CPC for amendment of the plaint for converting the suit into one for damages quantifying the damages as stated in para 8A. The trial Court dismissed the application. In the revision, the High Court allowed it. Thus, this special leave petition.

It is contended for the petitioner that a suit merely for settlement of accounts and declaration that the respondent is entitled to recover damages form the defendant cannot be converted into a suit for damages in particular after the right of recovery is barred by limitation, i.e., a valuable right had accrued to the petitioners. The High Court, therefore, is not right in granting the amendment. We find no force in the contention. It is seen that what is sought to be amended is paragraph 8A and the suit is to recover the quantified amount as damages based upon the original cause of action, namely, the contract referred to hereinbefore. It is seen that the original suit was for settlement of accounts and fastening a liability jointly and severally against all the defendants and the assets and estates. The relief originally sought for also was to declare the liability of the damages to be ascertained and recoverable from them. Thus, it could be seen that as per the original cause of action, the relief now sought for was available in the suit itself. Instead of settlement of account, the respondent is now seeking for damages against the respondent and the damages instead of being ascertained were quantifies in paragraph 8A of the plaint. The amendment does not constitute addition of any new cause of action. The respondent is not introducing any new cause of action nor it would change the cause of action as originally pleaded. Thus, there is neither change of cause of action nor introduction of any new cause of action after the bar of limitation. The High Court was, therefore, right in allowing the petition for amendment of the plaint. The special Leave Petition is accordingly dismissed.

