

## SUPREME COURT OF INDIA

Ragu Thilak D. John

Vs.

S.Rayappan

C.A.No.787 of 2001

(K.T. Thomas and R.P. Sethi JJ.)

23.01.2001

### JUDGMENT

**R.P. Sethi,J.**

1. Delay condoned.

2. Leave granted.

3. The appellant filed a suit against the respondents praying for a decree of permanent injunction restraining them, their agents and subordinates from demolishing the compound wall in the suit scheduled property. During the pendency of the suit, the respondents-defendants were alleged to have entered the appellant's house unauthorisedly and demolished the compound wall on north, east and western side. They were also alleged to have damaged the gate in the entrance.

4. In view of the subsequent developments, the appellant filed an application under Order 6 Rule 17 for the amendment of the plaint for adding paras 8(a) to 8(f) in his plaint. The trial court rejected his prayer and the revision petition filed against that order was dismissed by the High Court vide order impugned in this appeal, mainly on the ground that the amendment, if allowed, would result in introducing a new case and cause of action. It was further held that as the appellant was seeking recovery of damages, the amendment could not be allowed as it would allegedly change the nature of the suit. It was also observed that the amendment sought was barred by limitation.

5. After referring to the judgments in *Charan Das v. Amir Khan*<sup>1</sup>, *L.J. Leach & Co. Ltd. & Anr. v. Jardine Skinner & Company*<sup>2</sup>, *Smt.Ganga Bai v. Vijay Kumar & Ors.*<sup>3</sup>, *M/s.Ganesh Trading Co. v. Moji Ram*<sup>4</sup> and various other authorities, this Court in *B.K.N. Pillai v. P.Pillai & Anr.*<sup>5</sup> held: "The purpose and object of Order 6 Rule 17 CPC is to allow either party to alter or amend his pleadings in such manner and on such terms as may be just. The power to allow the amendment is wide and can be exercised at any stage of the proceedings in the interests of justice on the basis of guidelines laid down by various High Courts and this

Court. It is true that the amendment cannot be claimed as a matter of right and under all circumstances. But it is equally true that the courts while deciding such prayers should not adopt hypertechnical approach. Liberal approach should be the general rule particularly in cases where the other side can be compensated with the costs. Technicalities of law should not be permitted to hamper the courts in the administration of justice between the parties. Amendments are allowed in the pleadings to avoid uncalled for multiplicity of litigation.

6. If the aforesaid test is applied in the instant case, the amendment sought could not be declined. The dominant purpose of allowing the amendment is to minimise the litigation. The plea that the relief sought by way of amendment was barred by time is arguable in the circumstances of the case, as is evident from the perusal of averments made in paras 8(a) to 8(f) of the plaint which were sought to be incorporated by way of amendment. We feel that in the circumstances of the case the plea of limitation being disputed could be made a subject matter of the issue after allowing the amendment prayed for.

7. In view of the legal position, as noted hereinabove, the impugned order is not sustainable. Accordingly, the appeal is allowed by setting aside the impugned order and permitting the appellant-plaintiff to amend the plaint subject to payment of costs of Rs.500/-.

<sup>1</sup>*AIR 1921 PC 50*

<sup>2</sup>*1957 SCR 438*

<sup>3</sup>*1974 (2) SCC 393*

<sup>4</sup>*1978 (2) SCC 91*

<sup>5</sup>*JT 1999 (10) SC 61*