

Supreme Court formulates guidelines for amendment of pleadings

A 2 (two) judge bench comprising of Justice Anirudha Bose and Justice J.B Pardiwala in the case of *Life Insurance Corporation of India v. Sanjeev Builders Pvt. Ltd. and Anr.*¹ has laid down guidelines to be kept in mind for amendment of pleadings under Order VI Rule 17 of the Code of Civil Procedure, 1908 (“CPC”).

The Supreme Court formulated the guidelines in an appeal against the judgment of Bombay High Court dated December 13, 2021 allowing amendment of pleadings in a suit for specific performance of a contract. The guidelines are as follows:

1. All amendments are to be allowed which are necessary for determining the real question in controversy provided it does not cause injustice or prejudice to the other side. This is mandatory, as is apparent from the use of the word “shall”, in the latter part of Order VI Rule 17 of the CPC.
2. Courts to allow prayer for amendment:
 - (a) if the amendment is required for effective and proper adjudication of the controversy between the parties, and
 - (b) to avoid multiplicity of proceedings, provided
 - (i) the amendment does not result in injustice to the other side,
 - (ii) by the amendment, the parties seeking amendment does not seek to withdraw any clear admission made by the party which confers a right on the other side, and;
 - (iii) the amendment does not raise a time barred claim, resulting in divesting of the other side of a valuable accrued right (in certain situations).
 - (c) It would enable the court to pin-pointedly consider the dispute and would aid in rendering a more satisfactory decision.
 - (d) Where the amendment merely sought to introduce an additional or a new approach without introducing a time barred cause of action, the amendment is liable to be allowed even after expiry of limitation.
 - (e) where it is intended to rectify the absence of material particulars in the plaint.

¹ Civil Appeal No. 5909 of 2022

- (f) Where the amendment sought is only with respect to the relief in the plaint and is predicated on facts which are already pleaded in the plaint.
3. A prayer for amendment is generally required to be allowed unless:
 - (a) by the amendment, a time barred claim is sought to be introduced, in which case the fact that the claim would be time barred becomes a relevant factor for consideration,
 - (b) the amendment changes the nature of the suit,
 - (c) the prayer for amendment is malafide, or
 - (d) by the amendment, the other side loses a valid defence.
 4. In dealing with a prayer for amendment of pleadings, the court to avoid a hyper technical approach is ordinarily required to be liberal especially where the opposite party can be compensated by costs. The court should also be liberal if the amendment is sought before commencement of trial.
 5. Delay in applying for amendment alone is not a ground to disallow the prayer. Where the aspect of delay is arguable, the prayer for amendment could be allowed and the issue of limitation framed separately for decision.
 6. Amendment should be disallowed, where the amendment changes the nature of the suit or the cause of action, so as to set up an entirely new case, foreign to the case set up in the plaint.

JSA Comment

The Supreme Court has by way of its judgment given comprehensive guidelines. The factors above relevant for amendment of pleadings, were found in several cases where each or few of the factors were independently laid down. However, this judgment puts down almost all the factors comprehensively for the law pertaining to amendment of pleadings.

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