

**IN THE HIGH COURT OF SINDH,  
AT KARACHI**

**C. P. No. D-1426 of 2022**

**Present:**

Ahmed Ali M. Shaikh, CJ  
and Yousuf Ali Sayeed, J

Petitioner : Zulfiqar Ali through Ms. Shagufta Perveen, Advocate.

Respondents : Nemo.

Date of hearing : 13.04.2022.

**ORDER**

**YOUSUF ALI SAYEED, J.** - The Petitioner has invoked the jurisdiction of this Court under Article 199 of the Constitution, impugning the Order made on 03.02.2022 by the learned District Judge/Model Civil Appellate Court, Thatta, dismissing Civil Revision Application No.26/2021 filed by the Petitioner against the Order of the learned Senior Civil Judge, Thatta, dated 05.11.2021, whereby the Application under Order VI Rule 17 CPC filed by the Petitioner in Civil Suit No.121/2017 was dismissed.

2. The Civil Suit had apparently been filed by the Petitioner in respect of a Sikni Plot, described as bearing Jariyan No.18 from Na-Class No.2, admeasuring 10200-0 sq. feet, with specified boundaries, wherein he had arrayed certain official functionaries as Defendants along with two private persons, eliciting a declaration as to his ownership of the property and praying that the defendants be restrained the Defendants from interfering with his possession thereof.

3. The underlying Application under Order VI Rule 17 CPC, which is the subject of the impugned Orders of the fora below, had apparently been filed for impleading two further persons as defendants, with the amendments proposed therein relating to the assertions made in their defence by those persons that certain parcels of land were owned by them based on Registered Sale Deeds and consequent entries said to exist in their favour, with it being sought *inter alia* that the prayer clause of the plaint also be amended so as to envisage a declaration that those Registered Sale Deed were false and the entries made on the basis thereof had no value in the eyes of law.
  
4. That Application was found to be devoid of merit, hence came to be dismissed, with the Revision Court also meeting the same fate. The relevant Paragraph from the order dated 03.02.2022 reflecting the reasoning of the Revisional Court is as follows:-

*“7. From the further perusal of record it also appears that after framing issues on 09.02.2018, the Applicant/Plaintiff filed an Application under Order I Rule 10 CPC to add Anwar and Muhammad Ameen as Defendants, which was allowed and Applicant/Plaintiff has also filed such amended title. Thereafter, learned counsel for Applicant/Plaintiff has also filed an application under Order VI Rule 17 CPC and the same was allowed by the learned trial Court to amend the Plaint. After such amendments issues were framed on 11.12.2019. The matter was fixed for leading evidence of Applicant/Plaintiff side. Thereafter the Applicant/Plaintiff, instead to recording his evidence, filed second application under Order VI Rule 17 read with Section 151 CPC with the request to alter/amend the averments in the plaint and so also prayer clause and later on that same application was not pressed by the Applicant/Plaintiff side. Thereafter learned counsel for the Applicant/Plaintiff again filed third application*

*under Order VI Rule 17 CPC read with Section 151 CPC. And the learned trial Court dismissed the same vide order dated 05.11.2021. The power to permit amendment is discretionary with the Court and discretion is to be exercised in accordance with judicial principle. It is well settled that amendments are not to be allowed where its effect would be to convert the character of the suit and amendment should be permitted if the nature of the suit is not altered. In my humble view amendments which the Applicant want in the plaint will change the nature and character of the suit. Record also reveals the conduct of the Applicant/Plaintiff that he do not want to examine himself or witnesses before trial Court and filing of such type application again and again by him is for only to prolong the matter. At this stage, I would like to say that the plea of amendment is inconsistent with the plea setup in the plaint. The suit of Applicant/Plaintiff filed before learned Senior Civil Judge, Thatta in the year of 2017 which is old one. At this stage averments amended in the suit, shall also be changed which would result in causing serious prejudiced to other side. Any amendment which is likely to change the nature of the suit, cause of action or both is not likely to be allowed. Court is under a duty to watch the bonafide/malafide of the party seeking amendment. Amendment should be permitted if the nature of the suit is not altered.”*

5. Prima facie, the Order appears to be properly reasoned and on query posed, as to what perversity or illegality afflicted the approach of the Courts below, learned counsel for the Petitioner was at loss to offer any cogent argument. As such, the Petition appears to be misconceived, with no case for interference being made out.

6. That being so, while granting the application for urgency, we dismiss the Petition *in limine* along with other pending miscellaneous applications.

JUDGE

CHIEF JUSTICE

Karachi.  
Dated: