

Metro Industries Vs. Adityapur Industrial Area Development Authority and ors.

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SooperKanoon Citation : sooperkanoon.com/516798

Court : Jharkhand

Decided On : Mar-01-2006

Reported in : [2006(2)JCR400(Jhr)]

Judge : Narendra Nath Tiwari, J.

Acts : Code of Civil Procedure (CPC) - Sections 151 - Order 6, Rule 17

Appeal No. : W.P.(C) No. 7043 of 2005

Appellant : Metro Industries

Respondent : Adityapur Industrial Area Development Authority and ors.

Advocate for Def. : P. Modi and; R.C.P. Sah, Advs.

Advocate for Pet/Ap. : Rajiv Ranjan and; Abhay Kr. Mishra, Advs.

Disposition : Application allowed

Judgement :

Narendra Nath Tiwari, J.

1. Heard Mr. Rajiv Ranjan, learned Counsel for the petitioner, Mr. R.C.P. Sah, learned Counsel for 1st and 2nd respondents and Mr. P. Modi for the State.

2. In this writ petition the petitioner has prayed for quashing the order dated 12.8.2005 passed by the learned Munsif, Saraikela in T.S. No. 9 of 2003 whereby the learned Munsif has refused to allow the petition for amendment filed by the plaintiff-petitioner under Order VI Rule 17 read with Section 151 of the Code of Civil Procedure.

3. From perusal of the order of the learned court below, it appears that while refusing the amendment learned court below has entered into the effect and merit of the proposed amendment and has given a finding which reads thus :

Abhilekh awlokan se aspast hai ki wadi ko yah samajhne ka kya adhar hai ki appeal kharij ho gaya. Aisa kuchh bhi abhilekh par uplabdh nahi hai.

And on that basis the learned court below has observed that by allowing the amendment as sought for, there will be a new addition in the suit and nature of the suit will change. For recording the said finding no reason has been assigned as to how the nature of suit will change by inserting the amendment prayed for by the plaintiff.

4. From perusal of the record it appears that the suit is at its initial stage and it has even not reached at the evidence stage. Plaintiff has only prayed for addition of some statement regarding the fate of the appeal filed by it. There is nothing in the said statement which will change the nature of the suit. In my view, the learned court below has erred in refusing the prayer for amendment made at the initial stage of this suit though there is nothing on record to show that the proposed amendment would in any way prejudice the defendants-respondents.

5. For the said reason the impugned order dated 12.8.2005 passed by the learned Munsif, Saraikela in T.S. No. 9 of 2003 is set aside and this writ application is allowed. Consequently the plaintiffs' petition for amendment of the plaint is also allowed.