
(1982) 01 GAU CK 0008
In the Gauhati High Court

M.P.Jatia & Others

APPELLANT

Vs

State Bank of India and Others

RESPONDENT

Date of Decision : 01-01-1982

Acts Referred:

Civil Procedure Code, 1908 — Order 6 Rule 17

Civil Procedure Code, 1908 (CPC) — Order 6 Rule 17

Citation : (1982) 1 GLR 165

Hon'ble Judges : D.Pathak, C.J.

Bench : Single Bench

Advocate : D.N.Choudhury, H.N.Sarma, K.P.Sarma, P.Choudhury, Advocates
appearing for Parties

Judgement

Pathak, C.J. (Actg.)

1. This revision petition is directed against the order dated 15.7.78 passed by the Assistant District Judge No. 2 Gauhati in Money Suit No. 88 of 1974, by which the petition of the present petitionersdefendants seeking amendment of the written statement was rejected. I do not like to burden this order by narration of the facts. It suffices to say that the opposite party filed a suit for realization of Rs. 8,40,108.36 against the opposite party Nos. 2 and 3 for whom the present petitioner was a guarantor and who has been made party to the suit itself. The petitioner filed an application for amendment of the written statement under Order 6, Rule 17 of the Code of Civil Procedure. A perusal of the aforesaid Order 6 and Rule 17 shows that this is only a procedural matter in which the Court below will have to consider the application for filing of the written statement or the amendment of the written statement keeping in view the justice of the case. I have gone through the petition for amendment of the proposed W. 5 which has been annexed to the petition as AnnexureII. After going through the proposed amendment of the written statement, I do not find that it will anyway prejudice the case of the plaintiff in the suit. I do not like to express any opinion as to the merit of the suit itself or on the proposed amendment of the written statement.

These are matters which can be agitated if legally permissible in the trial court itself. Accordingly the order passed by the Court below in rejecting the application for amendment of the written statement is set aside and the proposed amendment may be allowed to be filed at the cost of the petitioners in the Court below.

2. Mr. P. Choudhury, the learned Counsel for the plaintiff opposite party submits that the suit was filed to 1974 and the suit is already delayed in the trial Court for disposal.

3. Accordingly it is directed that the trial Court should dispose of the suit itself after receipt of the amended written statement within a period of six months. The parties are to take steps on 5th of February, 1982.

4. The petition is allowed and the Rule is made absolute.

Send down the records of the case immediately to the trial Court.