

(CNR No.HRKRB0000084-2018)
Prem Lata Versus General Public etc.
1 CIS NO.SUCC 2/2018.

IN THE COURT OF SH. RAMESH CHANDER,
ADDL. CIVIL JUDGE (SR.DIVN.),INDRI (UID NO.HR0309).

APPLICATION UNDER SECTION 6 RULE 17 READ WITH
SECTION 151 CPC FOR SEEKING AMENDMENT IN THE
PETITION.

Date of Order : 05.07.2019.

Present: Sh. J.S.Jatain, Adv. for petitioner/applicant.
Sh. K.S.Kalsoura, Legal Aid Counsel for respondents no.2
and 3.
Respondent no.1 exparte.

ORDER:-

This order of the court shall dispose of an application under order 6 rule 17 read with Section 151 CPC for amendment in the petition moved on behalf of the applicant/petitioner with the contentions that the petitioner has filed present petition under Section 372 of the Indian Succession Act, but at the time of filing the present petition in the para no.2 in Sub Para (d) in the 1st line wrongly written as “*The petitioner being nominee of his son Hemant Kumar Sharma*” instead of “*The petitioner is 1st class legal heir of his son Hemant Kumar Sharma*”. After coming to know this mistake the petitioner has moved the present application without any delay. If the present application may be allowed by this Hon’ble Court the other party will not suffer any hardship in any

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manner. Further, if the present application not allowed by this Hon'ble Court then the applicant/petitioner will suffer irreparable loss and injury which cannot be compensated in any manner. Hence, prayer has been made to allow the present application in the interest of justice.

2. On the other hand, reply has been filed on behalf of respondents no.2 and 3 controverting the facts mentioned in the application with the contentions that the answering respondents no.2 and 3 are also the first class legal heirs of the deceased. As per law, the amendment with respect to any kind of subsequent event taken during the pendency of the case can be allowed, but in this case no such subsequent event has taken place, hence there is no need of any kind of amendment in the petition. By way of proposed amendment the applicant wants to fill up gaps and lacunas in his pleading which is not permissible under the law. Hence, prayer has been made that the present application be dismissed with costs in the interest of justice.

3. Arguments heard. After hearing the rival contentions and perusal of the case file carefully, it is amply clear that the case is still at the initial stage when the present application under order 6 rule 17 read with Section 151 CPC has been filed as no evidence has been led on

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either side. Further. It is also amply clear that by way of the present amendment the nature of the suit is not going to be changed and whether the petitioner is 1st Class legal heir of her son Hemant Kumar Sharma or not is to be seen from the evidence led on behalf of the parties, hence it does not amount to filling of the lacuna or gap. It is settled law that the provisions as to the amendment are to be construed liberally. Therefore, in the interest of justice finding the merits in the present application same is accordingly allowed with no order as to costs.

Nothing expressed herein before shall have any hearing on the merits of the case.

Announced in open court.

**(Ramesh Chander),
Addl. Civil Judge (Sr.Divn.),
Indri/05.07.2019
(UID No. HR0309)**

Note:- This order contains 3 pages and each pages has been checked and signed by me.

**(Ramesh Chander)
Addl. Civil Judge (Sr.Divn.),
Indri/05.07.2019
(UID No. HR0309)**

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**(Ramesh Chander)
ACJ(SD), Indri, 05.07.2019**

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Sh. K.S.Kalsoura, Legal Aid Counsel for respondents no.2
and 3.
Respondent no.1 exparte.

Arguments heard on the application under order 6 rule 17
read with Section 151 CPC for amendment in the suit. Vide my separate
order of even date the present application is hereby allowed with no order
as to costs.

Now to come up on 17.08.2019 for filing of amended plaint.

**(Ramesh Chander),
Addl. Civil Judge (Sr.Divn.),
Indri/(UID No. HR0309)**

Date of order:05.07.2019
Typed; Parveen, Steno Grd.IInd.

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