



2025:DHC:5961



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 21st July, 2025+ CM(M) 1283/2025 & CM APPL. 42938-42940/2025
SAR TRANSPORT SYSTEMS PVT LTD

.....Petitioner

Through: Mr. Karanjot Singh Mainee, Mr. Sahil
Chopra and Mr. Tarun Garg,
Advocates.

versus

M/S ROSS INTERNATIONAL

.....Respondent

Through: None.

CORAM:**HON'BLE MR. JUSTICE MANOJ JAIN****JUDGMENT (oral)**

1. Petitioner is defending a suit which is commercial in nature.
2. When the case was at the stage of framing issues and case management hearing, defendant moved an application under Order VI Rule 17 CPC seeking amendment in the written statement.
3. The prime reason given in such application was that the previous counsel had not clarified certain aspects and, therefore, the amendment was required. It was also claimed that by virtue of the abovesaid application, the defendant was not withdrawing any admission as such and was not even altering the nature of the defence, already set up by it.
4. The learned Trial Court has, however, declined to allow such amendment and such order dated 03.06.2025 is under challenge.
5. Admittedly, the Court should be, generally, liberal in approach and if



proposed amendment seems necessary to decide real disputes and controversy between the parties, it can be allowed even if there is delay in moving such application. In *LIC v. Sanjeev Builders (P) Ltd.*: 2022 SCC OnLine SC 1128, it has been observed that where amendment would enable the court to pin-pointedly consider the dispute and would aid in rendering a more satisfactory decision, the request for amendment should be allowed. It also lays down that where amendment is predicated on facts which are already pleaded, ordinarily, the amendment should be allowed.

6. However, at the same time, there cannot be any rigid and straightjacket formula as to when such request is to be granted and when to be rejected. Undoubtedly, the amendment cannot be disallowed merely for the reason that it is comprehensive in nature.

7. It all depends on the factual matrix of any given case and, therefore, such request has to be understood after properly appreciating the facts. It also needs to be kept in mind whether the proposed amendment is based on facts which were already within the knowledge of any such applicant, or not.

8. Even if the trial has yet not begun, it does not mean that any party, be it plaintiff or defendant, gets indefeasible right to seek amendment, that too, by, merely, claiming that the defence was not set up properly by the previous counsel or that there is no alteration in the basic stand taken by the defendant.

9. The suit in question is commercial in nature and there are certain rigid and inflexible timelines and, merely, because the previous counsel had not highlighted some aspects, which according to the defendant were imperative in nature, it would not give any automatic handle to any such party to move application with the request that amendment be allowed as the trial has yet not begun.



10. If such type of requests are entertained and if the Constitutional Courts also start giving *seal of affirmation* on request of such kind, the mandatory provision and the timelines provided in the Commercial Courts Act would, virtually, become redundant.

11. The Court has gone through the impugned order and, quite evidently, the discretion seems to have been exercised in a judicious manner and there is no illegality or perversity in the order which may warrant any kind of interference by this Court. Reference be made *Black Diamond Trackparts (P) Ltd. v. Black Diamond Motors (P) Ltd.*, (2022) 1 HCC (Del) 737 wherein this Court observed as under:-

“5. Before proceeding further, it may be noted that the power under Article 227 of the Constitution of India being one of judicial superintendence cannot be exercised to upset conclusions, howsoever erroneous they may be, unless there was something grossly wrong or unjust in the impugned order shocking the court’s conscience or the conclusions were so perverse that it becomes absolutely necessary in the interest of justice for the court to interfere. The powers under Article 227 will be used sparingly. The Supreme Court has observed in India Pipe Fitting Co. v. Fakhruddin M.A. Baker (1977) 4 SCC 587 and in Mohd. Yunus v. Mohd. Mustaqim (1983) 4 SCC 566 that the supervisory jurisdiction conferred to the High Courts under Article 227 of the Constitution of India is limited to overseeing that an inferior court or tribunal functions within the limits of its authority and is not meant to correct an error, even if apparent on the face of the record. A mere wrong decision without anything more is not enough to attract this jurisdiction. Even in the judgment relied upon by the learned senior counsel for the respondent/plaintiff mentioned above, the Division Bench of this court has again cautioned that Article 227 of the Constitution of India be used sparingly in such suits which under the CPC are revisable and which remedy has been taken away by the Commercial Courts Act, 2015, in order to preserve the legislative intent and give effect to the purpose behind the Commercial Courts Act, of expeditious disposal of commercial suits.”

(emphasis supplied)

12. The petition is, accordingly, dismissed.



2025:DHC:5961



13. However, keeping in mind the overall facts and circumstances of the case, the cost of Rs. 15,000/-, which has been imposed upon the petitioner while dismissing his application seeking amendment, is hereby waived.
14. The present petition is disposed of in aforesaid terms.
15. Pending applications also stand disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

JULY 21, 2025/ss/pb