



Non-Reportable

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**Civil Appeal No.9774 of 2026
[@ Special Leave Petition (C) No.28911 of 2025]**

CHITRA & ANR.

....APPELLANTS

Versus

C. NATARAJAN

....RESPONDENT

ORDER

Leave granted.

2. The appellant, the defendant in a suit for recovery of money is aggrieved by the impugned order, which permitted amendment of the plaint at the appellate stage, when the suit was dismissed on that principal aspect, which is now sought to be brought in by way of amendment. The District Court, in which the appeal was pending, rejected the application by Annexure A5.

3. The appellant, a partnership firm, through its Manager, filed a plaint for recovery of money asserting that the first defendant had purchased a motor vehicle under a higher purchase agreement from the plaintiff and

had committed default of the amounts due. The specific contention in the plaint was that the defendant purchased a vehicle numbered as TN-31-K-9533. The suit was dismissed *inter alia* on the ground that, while in the suit the registration number was noticed as above, in the agreement the registration number was TN-31-F-9533. The suit was dismissed by Annexure P3 dated 27.03.2015.

4. An appeal was filed as A.S. No.96 of 2015 much later, in the year 2016. The subject IA was filed seeking amendment of the plaint. The Principal District Judge, Salem, according to us, rightly dismissed the application finding that Order VI Rule 17 does not apply, specifically referring to the decision of this Court in *Rajkumar Gurawara (dead) Thr. Lrs. v. S.K. Sarwagi & Co. Pvt. Ltd. and Anr.*¹ This Court on an interpretation found Order VI Rule 17 permits pre-trial amendments liberally than those which are sought after commencement of the trial. While the first part of the rule makes it abundantly clear that at any stage of proceedings, parties are free to alter and amend their pleadings so as to bring forth the real questions in controversy; it is subject to the proviso, which

¹ (2008) 14 SCC 364

restricts amendment after the trial has commenced to be allowed only if the Court comes to the conclusion that, in spite of due diligence, the party could not have raised the matter before the commencement of trial.

5. With this principle in mind, we look at the facts of the present case. The order of the District Judge, Salem, Annexure A4 rejecting the IA, observes that the notice issued by the appellant also indicated the registration number as TN-31-K-9533. The reply notice issued by the respondent specifically pointed out that there was no purchase of such a vehicle and they had purchased only TN-31-F-9533, despite which the plaint was filed with a different number. The loan transaction was also denied. Definitely before commencement of trial, the mistake could have been corrected, as a matter of right.

6. As noticed above the proviso to Order VI Rule 17 specifically speaks of amendment after commencement of trial to be permitted only if the party, despite having exercised due diligence, could not have raised the matter before the commencement of trial. In the present case, it is sheer carelessness, which the plaintiff has to necessarily

suffer. Even if an application was filed after commencement of trial, the Court could not have concluded as per the proviso. In that circumstance, there is no question of amendment after the suit itself stood dismissed. True, the appeal is a continuation of the original proceeding but insofar as amendment, Order VI Rule 17 regulates the matter and puts the claim of the plaintiff/appellant in peril.

7. We find absolutely no reason to sustain the impugned order and set aside the same. The First Appeal is said to be pending before the Principal District Judge, Salem which shall be considered on its merits.

8. The civil appeal stands allowed with the above observations.

9. Pending application(s), if any, shall stand disposed of.

..... J.
(J. B. PARDIWALA)

..... J.
(K. VINOD CHANDRAN)

**NEW DELHI;
JULY 28, 2026.**