

Misc. (J) No-49 of 2019
(Arising out of T.S. No-18 of 2018)

Assam Schedule VII: Form No. 132

HIGH COURT FORM NO. (J) 2.
HEADING OF JUDGMENT IN ORIGINAL SUIT / CASE
IN THE COURT OF THE CIVIL JUDGE, TEZPUR, SONITPUR

Present: **N.J. Haque, LLM, AJS**
Civil Judge
Tezpur, Sonitpur

3rd day of May, 2019

MISC.(J) NO. 49/2019
(Arising out of T.S. No.18/2018)

Smt. Uma Chetry

-- Petitioner

-Vs.-

Sri pitambar Saikia

----- Opp. Party

Ld. Advocate appeared for the petitioner
Ld. Advocate appeared on behalf of OP

: - Mr. S. Borthakur
: - Mr. D.Sharma

A petition under Order 6 Rule
17 and Section 151 of Code of
Civil Procedure.

1. Instant Misc. case arisen out of a petition filed by petitioner/plaintiff against the O.P Order 6 Rule 17 and Section 151 praying amendment of the plaint.
2. Both the sides are represented today. Heard both sides and perused the petition No. 635 along with entire case record. It divulges from petition No. 635 that plaintiff has prayed amendment of plaint contending that at the time of filing of the plaint due to typographical error and bonafide mistake in Line 2 of para 5 of page No.2 of the plaint after the word July, year "2017" has been wrongly typed instead of year "2016". The petitioner further contended that due to the proposed amendment no new cause of action will arise and if the proposed amendment is allowed then no prejudice will be caused to the

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defendant in any way. It is further contended that due to the proposed amendment, foundation of the suit will not be altered and the same is necessary for proper determination of the real controversy of the suit. As such, plaintiff prayed to amend the plaint by way of deleting the figure "2017" in Line 2 of para 5 of page No.2 of the plaint and inserting the figure "2016".

- 3.** Heard both sides and perused the petition along with the entire case record. The defendant side during the time of hearing, conceded the prayer of the plaintiff.
- 4.** The contention of petition No. 635/19 appears to be purely a typographical mistake committed at the time of preparing the plaint and in case the prayer of the plaintiff is allowed, the defendant side is not going to be prejudiced in any manner, rather it will help the Court to decide the real points of controversy between the parties. The original suit is pending at the stage of PW affidavit and that trial of this suit yet to be started. In the light of above said discussions, this court finds just and reasonable ground to allow the prayer of the plaintiff.
- 5.** In the light of the above discussion, the prayer of the plaintiff side is allowed without any cost.

ORDER

- 6.** Upon the above said observation instant misc. case stands disposed of by way of passing the following orders:-
 1. Plaintiff side sets at liberty to amend the plaint by way of inserting the figure as '2016' in place of '2017' in line 2 of para 5 of page No.2 of the plaint;
 2. Plaintiff further sets at liberty to submit amended plaint;
 3. Both the sides shall bear their respective cost.
- 7.** Inform both the sides. D/A shall take steps accordingly. Petition No.635/19 stands disposed of accordingly. Misc. (J) case is disposed of accordingly.

Civil Judge
Sonitpur, Tezpur