



SUMMARY SUIT NO.26/2023

CNR No. GASG030003102023

ORDER BELOW EXHIBIT D-18

(Delivered on this 07th day of the month of April, 2026)

This Order shall dispose of an Application for Amendment of the Complaint under Order VI Rule 17 r/w. Section 151 of the Code of Civil Procedure, 1908 at Exhibit D-18.

2. It is the averment that the Plaintiff Bank that they have filed the present Summary Suit under Order XXXVII of the Code of Civil Procedure, 1908 for recovery of an amount of Rs.1,44,043.28/- (Rupees One Lakh Forty Four Thousand Forty Three and Paise Twenty-Eight only) together with interest and costs. The matter is presently at the stage of evidence of Plaintiff Witness No.1.

3. It is further submitted that in the Plaint, particularly in Paragraph No.12 and in the Cause of Action, the date of issuance of the legal demand notice addressed to the Defendant has inadvertently and mistakenly been mentioned as 16.07.2023 and the same incorrect date is also reflected in the List of Documents. The said mistake is purely clerical and typographical in nature, occurred unintentionally at the time of drafting, and is not deliberate. The actual and correct date of issuance of the Legal

Demand Notice is 20.07.2023, which is clearly borne out from the Copy of the Legal Notice and the postal proof already produced and exhibited on record and that despite exercising due diligence, the said clerical error could not be noticed earlier, as the documentary evidence on record itself reflects the correct date, and the discrepancy came to light only during preparation of the Affidavit-in-Evidence of PW-1.

4. It is further submitted that the proposed amendment does not change or introduce any new facts, alter the cause of action, affect the nature of the suit under Order XXXVII of Civil Procedure Code, modify the recovery amount of Rs.1,44,043.28/- or prejudice the rights or liability of the Defendant in any manner. No prejudice whatsoever will be caused to the Defendant by allowing the present amendment, as the Defendant was always aware of the correct legal demand notice dated 20.07.2023. The amendment sought is limited,

bona fide, and necessary only for the purpose of correcting the record, so as to enable proper and effective adjudication of the present suit. The present application is filed in the interest of justice. Hence, the present Application.

5. The defendant has endorsed her Say leaving it to the Court.

6. Perused the contents of the Application and the records. Heard the arguments advanced by Adv. S. Mudkudkar for the Plaintiff and Adv. K. Komarpant for the Defendant.

7. As per Order VI Rule 17 of Civil Procedure Code, *“The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties. Provided that no application for amendment*

shall be allowed after the trial has commenced, unless 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”.

8. The present suit is filed for the recovery of money, wherein the Plaintiff has wrongly mentioned the date of the Legal Notice in its pleading. Since it is a typographical error and to substantiate the same the Legal Notice relied by him shows the correct date, and therefore on the face of record it appears that the said error is typographical in nature and will not change the nature of the suit as the document speaks for itself. Further, the proposed amendment is necessary to decide the real controversy between parties in the present suit.

9. As regards, merits of the Application for Amendment is concerned the Hon’ble Bombay High Court (Nagpur bench) in the

case of *Janardan Urkuda Waghmare v/s Ratanlal Kashinath Gudekar* 2007 (6) ALL MR 800; has held that “merits of the amendment are not to be looked into while considering the application for amendment. The parties are always at liberty to oppose the merits of the amended portion and to rebut the pleadings and proof. “

10. The proposed amendment pertains directly to the subject matter in the issue before the Court and is very much relevant in deciding the material controversy between the parties. As it is a very settled Principle of Law that if the proposed amendment is necessary to determine the real controversy between the parties and if it does not otherwise cause injustice to the parties such amendment should be allowed.

11. Hence, in the interest of justice I pass the following Order.

ORDER

1. The Application at Exhibit D-18 is allowed with costs.
2. The Plaintiff shall carry out the amendment within 14 days.

Pronounced in the Open Court.

Dated:07.04.2026

Place: Canacona

Anf/-

(Ms. Smita U. Sail)

Civil Judge, Junior Division,
Canacona.