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| MHAH050006902017  | <u>ORDER BELOW EXH. 25 IN R.C.S.</u> <u>NO.227/2017.</u> <u>Shakuntala Shantilal Bairagi</u> <u>Vs.</u> <u>Grampanchayat / Sarpanch</u> |
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This is plaintiffs application dtd.15.03.2022, with affidavit (Exh.26) for amending her plaint. Perused application with the say of defendant Grampanchayat (Exh.30). Perused plaint.

2. The suit is filed on dtd.17.10.2017. Issues are framed below (Exh.14) on dtd.24.09.2018. Plaintiff had laid her evidential affidavit at (Exh.15) on 23.03.2019. One application is moved by plaintiff for Court Commissioner on dtd.29.03.2019 at (Exh.16). It came to be allowed vide order dtd.07.12.2019. Thereafter, matter was pending for plaintiff's cross-examination. Later, plaintiffs have moved application for interim injunction (Exh.21) dtd.07.01.2022. Whereon show cause was issued to defendant. During pendency of interim application, present application is moved by plaintiffs for amending the plaint.

3. Plaintiffs aver that after order of the Court Commission, during pendency of the survey of alleged encroached land, defendant grampanchayat has expediently started erecting the compound wall and water tank. This work of defendant grampanchayat has caused plaintiffs to move application for interim injunction on 07.01.2022. On count of this work which would change the nature of property and that too during the pendency of the suit, plaintiffs proposed to amend their

plaint in order to bring the facts which has occurred during the pendency of the suit regarding suit property and to seek relief accordingly. They pray for allowing the application.

4. Defendant grampanchayat in its say(Exh.30) have submitted that the application is not legally tenable. It contends that plaintiffs are trying to bring some facts on record which would change the nature of the suit property. It contends that the grampachayat serves for its citizens and that it has no concern with property of the citizens. As per defendant grampanchayat, this application is moved with sole intent to delay the suit. As this application is not legally tenable, defendant pray for its rejection and that too with heavy costs.

5. As observed from record and highlighted above, the proposed amendment is regarding facts, which have occurred after order below (Exh.16), for the survey of disputed property by the Court Commissioner. The alleged facts which plaintiffs propose to implead have occurred during the pendency of the suit. As the proposed facts have occurred during the pendency of the suit, those are required to be brought on record as they are regarding the suit property and would be fruitful for the complete adjudication of the suit.

6. Though defendant grampanchayat have strongly objected the application, even if the application is allowed and the proposed amended facts are impleaded in the plaint, no harm would be caused to defendants as they would be having every single opportunity to defend the alleged facts, which are impleaded by the plaintiffs in their suit.

7. Admittedly, this amendment application is moved by the plaintiffs when the suit is pending for hearing. But, as the proposed

alleged facts, which are to be impleaded in the plaint vide amendment, have occurred during the pendency of the suit, they are required to be brought on record for complete and meritorious adjudication of the suit. Therefore, in interest of justice, I pass following order.:-

ORDER

1. Application is allowed.
2. Plaintiffs to carry out requisite amendment within 15 days from the date of the order.
3. Plaintiffs being ladies, and one of them being senior citizen, no order as to costs.

Date: 14/07/2023

(Vinay B.Kamble)
Jt. Civil Judge Sr. Division,
Shrirampur.