

ORDER BELOW EX.30 IN R.C.S. No.459/2015
(Houshiram Agre+2 Vs. Gangadhar Agre & Ors.)

1] Plaintiffs filed this application for amendment in their plaint. It is contention of the application that, suit is for injunction and demarcation of boundaries. They have also filed application for measurement and on 20/10/2016 TILR Rahata has measured the suit property and filed his detailed report in the suit. In that report TILR has mentioned that some portion of plaintiffs is encroached by the defendants and hence they prayed to amend the plaint in that respect.

2] Defendants failed to file say and hence application proceeded without their say.

3] Heard plaintiffs at length. Defendants failed to argue on the application.

4] The proposed amendment is with respect to encroachment made by defendants in the suit property. The defendants have not challenged the application by filing their say. From the proposed amendment the nature of suit will never be changed because plaintiffs want to add the portion with respect to encroachment by defendants and recovery of encroached portion from the defendants. If the amendment is allowed, defendants are at liberty to file additional written statement. Therefore, there is no bar to entertain this amendment application.

5] The nature of proposed amendment will not cause anywhere injustice to the defendants. Proposed amendment will not change the nature of suit or will not cause injustice to the defendants. Hence, following order is passed.

ORDER

1. Application Ex.30 is allowed.
2. Plaintiffs are directed to carryout amendment within 14 days.
3. Supply copy of amended plaint to the defendants.

Rahata.
Date :- 03/01/2020

(V.A. Lavand-Kokate)
3rd Jt. Civil Judge Junior Division
Rahata