

Order Below Exh.43

Present application is filed by the plaintiff under Order 6 Rule 17 of the Code of Civil Procedure. The said application is filed by the plaintiff for amendment in the plaint. The present suit is filed by the plaintiff for fixation of the boundary marks of the suit property and for possession of encroached area by removing encroachment in the suit property.

2. By way of this application the plaintiff contended that as per measurement registration No.763 /2017 the measurement of the suit property was done. The description of the suit property mentioned in paragraph No. 1. Now the plaintiff want to convert paragraph No.1 into paragraph No.1A and 1B by adding paragraph No. 1A and other suit property added in paragraph No.1B. As per measurement map defendants No. 1 to 4 encroached in 32 Gunthas land of the plaintiff. The suit is filed for possession of encroached area and fixation of boundary marks of the suit property. Hence, he prayed to allow the application.

3. Say called from the defendants. Defendant No. 10 filed his say and contended that without any legal necessity said application is filed. Hence, prayed to reject the application.

4. Defendant No. 5 to 7 have filed their say at Exh. 48 and submitted that the said application is not true and correct and not filed within limitation. The boundary mentioned in this application are not admitted to these defendants. Already on Exh. 13 through T.I.L.R. measurement is done, but only the plaintiff has measured his property but as per Exh. 13 both the parties were permitted to measure the suit property. Hence, prayed to reject the application.

5. Perused the application, say filed by defendants No. 5 to 7 and 10 and

written argument at Exh. 52. The plaintiff has filed the present suit for fixation of the boundary marks and removing the possession of the encroached land in the suit property. Said amendment is necessary to decide the suit on merit. There is no change in the nature of the suit property and it is subsequent event which shows real fact of the suit property. As per the plaintiff, hence it is better to add the description in the suit to decide the real controversy between the parties finally. Thus, I find that the plaintiff can be permitted to amend the plaint and add description in the plaint, as prayed in in the application. Hence, I proceed to pass the following order-

ORDER

Application (Exh. 43) is allowed as follows-

The plaintiffs are permitted to amend the plaint as prayed in the application. The amended plaint shall be filed on record within such period.

Rahata

Date:- 24-04-2019.

(V.B. Kokate)
4th Jt. Civil Judge Jr.Dn.,
Rahata.