

**MHAH230007462021**



**ORDER BELOW EXHIBIT-38 IN RCS NO. 275/2021**

Heard counsel for the parties.

2. Exhibit-38 is application under order VI rule 17 of CPC for amendment in the pleadings and relief in the plaint. It is filed due to subsequent development based on the commissioner's report of measurement of the suit land. The application is opposed on the ground that it is false so it be rejected. If allowed costs be awarded.

3. The point for consideration is -  
Whether the proposed amendment as incorporated in application is necessary to decide all matters in controversy between the parties ?

My answer to the above point is **in the affirmative**.

**Reasons :**

4. The dispute is about encroachment on the plaintiff's land. Aproximate area of encroachment stated in the plaint. However, application for measurement through expert i.e. Deputy Director of Land Records filed by the applicant. It was allowed. Accordingly, the measurement work completed by the court commissioner and submitted report with map of measurement. Thus the plaint needs to be amended to decide all matters of controversy between the parties. The proposed amendment is also necessary because, if the suit is allowed then executable decree can be passed.

5. On behalf of the defendants it is not pointed out as to how the proposed amendment, if allowed, would prejudice. On the contrary, on allowing proposed amendment the defendants shall get opportunity to amend written statement, if necessary. They would, therefore, not prejudice in any manner.

6. For the reasons stated above, I proceed to pass the following-

**ORDER**

**Application exhibit-38 is allowed.**

**Proposed amendment incorporated in application exhibit-38 is allowed to be made in the plaint.**

**The amendment be carried out within statutory period of 14 days and amended copy of the plaint be filed on record.**

Date : 02.01.2026

Civil Judge S.D. Shrigonda.