

Order below Exh 20 in RCS No. 11/2010

By this application the plaintiff has sought amendment in the plaint. It is stated that the temporary injunction was granted against defendant no.1 and 2 by this court. The defendants were directed not to cut the trees on the southern side demarcation wall (बांध) as well as not to destroy the said demaracation wall. Thereafter, the commissioner was appointed to verify the demaracation wall. The T.I.L.R Parner (commissioner) has shown 0.01R encroachment by the defendant no.1 and 2 in the area of the plaintiff from southern side. The defendants had no concern with this land. Therefore, the plaint is required to be amended after plaint clause no.7a as below.

७अ१ 'तारीख १६/८/१२ रोजी झालेल्या मोजणीप्रमाणे मोजणीत दर्शविल्याप्रमाणे दावा मिळकतीचे दक्षिण बांधाचे बाजूने प्रतिवादी क्र १ व २ यांनी केलेल्या अतिक्रमित व त्यांच्या ताब्यात असलेल्या ०.०१ आर क्षेत्राचा ताबा प्रतिवादी क्र १ व २ यांनी वादींना देण्याचा प्रतिवादी क्र. १ व २ यांना हुकूम करण्यात यावा.'

2. The plaintiff further states that the above amendment is based on subsequent event and is necessary in the interest of justice. According to the plaintiff if the amendment is not allowed unnecessary multiplication of the proceeding will occur.

3. The defendants have opposed the application. It is stated that the application is neither true nor correct. It is further stated that the application is not tenable in the eyes of law. The defendants have denied the encroachment therefore the application be rejected.

4. The suit is for permanent injunction and other necessary directions. On perusal of the written statement it appears that the defendants have denied the encroachment from the southern side as well as threat to demarcation wall. The record shows that the T.I.L.R Parner was sent to the spot of suit land and measurement was done. On

perusal of the map submitted by the T.I.L.R Parner it appears that there is prima facie material to accept the contention of the plaintiff as to the encroachment. Though the report of the commissioner is not conclusive evidence, the plaintiff need not file separate litigation for the relief sought. The plaintiff is correct to say that in the suit on hand he may seek the relief in view of the commissioner report. Hence, the application is allowed. The amendment sought be carried within 14 days.

Date: 20-06-2017

(A. M. Patankar)
C.J.J.D., Parner

I affirm that the contents of this PDF file order are same word to word as per the original order.

Name of the stenographer	Thorat U. B.
Name of the Court	Civil Judge (J.D.) and Judicial Magistrate First Class, Parner
Date of dictation	20-06-2017
Order signed by PO on	20-06-2017
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