

Order below Exh. 55 in RCS No. 123/2011

Read application and say. This is the application for amendment. Plaintiff submitted as per the report of court commissioner it appears that defendant made encroachment and for the said it requires to make amendment and also requires to claim possession of the same. This fact came to the knowledge after court commissioner report. Hence, to avoid multiplicity of proceeding this application may kindly be allowed.

As it is strongly objected that the false court commissioner report was filed and still the court commissioner report is to be accepted in the evidence and without that this amendment cannot be considered. However, as per the court commissioner report it appears that prima facie that some encroachment is there. Other side will get chance to rebut it. But if it is to be there then it has to be pleaded and for this pleading in this suit only then it will be helpful to decide the suit on merit in one suit only. It will avoid the multiplicity of proceeding. So, I do not find any substance in the objection made by defendant. The proposed amendment is a subsequent event and will not change the nature of the suit but it will be helpful and avoid multiplicity of proceeding. Hence, application deserves to be allowed with cost. Hence, following order.

ORDER

1. Application is allowed subject to cost of Rs. 200/-.
2. Plaintiff to carry out the proposed amendment within 14 days from today.

Date: 21-10-2015

(R. S. Jambotkar)
Civil Judge (J.D.), Parner