

ORDER BELOW EXH. NO.31 IN
RCA No. 08/2016

(Shivaji Shikshan Sanstha Amravati Vs. Omprakash Dinkarrao Deshmukh)
(CNR No. MHAK05-000071-2016)

This is an application by the appellants praying for an amendment to the written statement under Order 6 Rule 17 of the Code of Civil Procedure. The appellants are the defendants in Special Civil Suit No. 59/2008. According to them, they filed the written statement before the trial court and contested the suit. In the written statement, the defendants inadvertently mentioned the date of the will in paragraph 12 as 04.05.1979. In fact, the correct date should have been 04.05.1976. The date mentioned in the written statement is a typographical error and needs to be corrected for the proper representation of the will. Accordingly, an amendment under Order 6 Rule 17 of the CPC is sought for paragraph 12 of the written statement dated 30.01.2007.

2. The respondent filed a reply at Exh. 32 and opposed the amendment. According to them, the application for amendment has been made at a belated stage. The appeal is scheduled for final arguments, and there has been no due diligence on the part of the appellants in seeking the amendment. The reason for condoning the delay is not mentioned in the application, making it untenable. The proposed amendment has serious consequences on the merits of the matter, and the respondent would be prejudiced thereby. The application, therefore, should be rejected with costs.

3. Heard the learned advocates for the parties, who reiterated their respective contentions during the arguments.

4. While appreciating the merits of the present matter, it is noted that paragraph 12 of the written statement mentions the date of the will as 04.05.1979, which is asserted to be a typographical mistake. It is an admitted fact that all the contentions revolve around the alleged will dated 04.05.1976. Neither party claims the existence of a will dated 04.05.1979. Therefore, the will's correct date of 04.05.1976 must be properly reflected in the written statement, and an amendment is necessary to correct this.

5. It is also noted that the date of the will as 4th May is correctly reflected in paragraph 12, but '79' appears to be a typographical mistake and should have been '76'. Considering this inadvertent error, the date of the will in paragraph 12 of the written statement needs to be rectified.

6. As for the proposed amendment, it is essential for the correct date of the will to be represented accurately. This is necessary to determine the real question in controversy. There is no logical reason to suggest that this amendment would prejudice the respondents. Therefore, the proposed amendment should be allowed as it is necessary to resolve the actual issue in dispute. Having regard to the above discussion, proposed amendment is required to be allowed. Hence, the order-

ORDER

1	The application is allowed.
2	The defendants in Spl. Civil Suit No. 59/2008 do carry out proposed amendment in paragraph No.12 of written statement dated 30.01.2007 and rectified.

3	The date of will be 04.05.1976 at the place of 04.05.1979.
4	Costs of the application be borne by appellants.
5	The proposed amendment be carried out on or before next date.

Place : Akot.
Date : 02.04.2025.

(B. M. Patil)
District Judge-1,
Akot.