

**ORDER BELOW EXH.68**

[Passed on 7/2/2024]

This is an application filed by plaintiffs for the amendment of plaint vide order VI Rule 17 of the Code of Civil Procedure.

2. According to the plaintiffs, they have filed the suit for declaration, and perpetual injunction. In this suit, the application Exhibit 5 filed for relief of temporary injunction is rejected by passing an order dated 4.3.2023. By taking advantage of said order the defendants removed the gram crop of plaintiffs from the suit property. Further, on the basis of said order passed below Exhibit 5 the defendant no.1 has done the summer operation in suit property in the month of May-2023, as well as the defendant no.1 sowed the suit land in June-2023 and thereby dispossessed the plaintiffs. Therefore, through proposed amendment plaintiffs want to narrate the said subsequently occurred facts in their plaint by mentioning further cause of action and valuation and court fees in respect of said subsequently occurred facts. Further, through proposed amendment the plaintiffs want to add the prayers in respect of recovery of possession of suit property and mense profits.

3. The defendant no.1 has filed his say to this application at Exhibit 69. He has contended that he cultivates the suit property since the period of his father. He has also denied the subsequent facts which plaintiffs want to add in their plaint through proposed amendment. He has further contended that the proposed amendment

hits by the provision under section 34 of Specific Reliefs Act. The issues are already framed. The proposed amendment would introduce a different case with a different cause of action and it will cause serious prejudice to defendant no.1. Therefore, this application be rejected.

4. Heard the learned respective advocates. On going through overall record and submissions, it appears that, yet the evidence of plaintiffs is not begun. Through proposed amendment plaintiffs just want to insert the facts in their plaint which are allegedly occurred after the decision of Exhibit 5. Whether such subsequent facts are really occurred or not can only be decided by due course of trial. But, for the just and proper adjudication of dispute and for avoiding multiplicity of proceeding said facts need to be on record of this suit. In such circumstances, if this application is allowed, then it would be helpful for the proper adjudication of dispute. The proposed amendment may be necessary for the purpose of determining the real questions in controversy between the parties. Further, it also appears that no prejudice is going to be caused to the defendants, if this application is allowed as they will also get an opportunity to do the consequential amendment in their written statement. Hence, in the interest of justice I pass the following order.

: ORDER :

- 1) The application Exh. 68 is hereby allowed.
- 2) The plaintiffs are hereby permitted to carryout the proposed amendment in their plaint.

- 3) The plaintiffs shall amend their plaint on or before next date of this suit and shall produce the sufficient copies of amended plaint on record.
- 4) Costs in main cause.

Date : 7.2.2024.

(Mahesh S. Kale)
Civil Judge (Sr.Dn.),
Akot.