

ORDER BELOW EXH.33(Delivered on 8th January, 2024)

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

2. According to the plaintiff, she has filed the suit for declaration, possession and perpetual injunction. In this suit, defendant had filed an application u/o.VII rule 11 of CPC on the ground that suit is wrongly valued. Said application was allowed by this court and the order of this court passed below said application was challenged by the plaintiff before Hon'ble High Court by filing writ petition No.62/2019. As per the order dated 13.7.2022 passed in said writ petition, the plaintiff requires to make the correction in valuation of suit in accordance with the valuation certificate filed at Sr.No. 46 to 49 in said writ petition. Therefore, plaintiff be allowed to do the necessary amendment for the correction of valuation and court fees mentioned in paragraph No.21 of the plaint. If proposed amendment is allowed, then the nature of suit is not going to be changed, as well as no prejudice will be caused to the defendant. Contrary, if this application is rejected, then irreparable loss will cause to the plaintiff. Therefore, proposed amendment be allowed.

3. Defendant has filed his say on the leaf of this application. He has stated that the plaintiff has not done the compliance of the order dated 20.7.2023 passed below Exhibit 18. She has filed this false application which is not tenable. The order

dated 20.7.2023 is condition precedent, therefore, in accordance with said order plaint of this suit be rejected and this application also be rejected with costs.

4. Heard the learned respective advocates. On going through overall record and submissions, it appears that, yet the trial of this suit is not commenced. Yet the issues are not framed. 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 defendant, if this application is allowed. Hence, in the interest of justice I pass the following order.

: ORDER :

- 1) The application Exh. 33 is hereby allowed.
- 2) The plaintiff is hereby permitted to carryout the proposed amendment in her plaint.
- 3) The plaintiff shall amend her plaint on or before next date of this suit and shall produce the sufficient copies of amended plaint on record.
- 4) After the amendment of plaint, plaintiff shall pay the required court fees on the amended valuation of this suit, failure to it, the plaint of this suit will be rejected vide Order VII Rule 11 of CPC.

Date : 8.1.2024.

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