

Regular Civil Suit No.:- 308/2001

Gorakhnath Thokal Vs. Muncipal Council, Gangapur  
Order Below Application Exh.-67  
(Passed on 16<sup>th</sup> July 2010)

1. Plaintiff filed this application and come with the case that, in pendency of the suit defendant No.1 illegally handed over suit plot/Gala to the defendant No.2. Hence plaintiff want to amend the suit and ask recovery of vacant possession over the suit property.

2. Defendant No.2 filed say vide Exh.-70 and come with the case that, due to said amendment there may change in nature of the suit. He further come with the case that, suit is pending for evidence from last ½ year and plaintiff is adjourned it time to time. To prolong the matter plaintiff filed this application. Petition is imaginary and false. Hence he prayed to reject the application.

3. Upon perusal of rival pleadings following points arise for my determination and I record my findings thereon with reasons to follow :-

POINTS	FINDINGS
1. Whether plaintiff is entitled to amend the suit?	In the affirmative
2. What order?	As per final order

REASONS

4. As to point No.1 :- By perusal of plaint, written statement and application plaintiff come with the case that, in pendency of the suit defendant No.1 hand over possession of the suit property to defendant No.2. Hence he want to amend the suit.

5. By perusal of record, it is clear that, issues are framed but suit is not part heard. Hence suit is not pending at the stage of effective hearing. Hence para first of Order-6 Rule-17 of the applicable in this case which runs as under :-

*Amendment of pleading :- The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real question in controversy between the parties.*

To adjudicate the matter as per law proper to allow the plaintiff to amend the suit by compensating defendants with appropriate cost. Hence I answer point No.1 is in affirmative and proceed to pass the following order.

ORDER

1. Application is allowed on cost of Rs.100/-.
2. Plaintiff is directed to amend the suit as early as possible.

Sd/-  
(A.P.Kulkarni)  
Civil Judge (Jr.Div.), Gangapur

Date :- 16-07-2010

Dist.:- Aurangabad.