

MHAU090005632013



ORDER BELOW EXH. 26 IN RCS NO.69/2013
(Mannu Vs. Baban)

This an application for amendment of plaint under Order VI Rule 17 of the Code of Civil Procedure.

2- Plaintiff submitted that the suit is in respect of 1 Acre land out of 6 H 31 R land in Gut No. 22 situated at Kadethan Tq. Paithan. The sale deed under challenge is in respect of 1 Acre land. However, due to typographical mistake it has not mentioned that the 1 Acre land out of 1 H 30 R land. The said omission in the plaint was inadvertent and due to typing mistake. Hence, he sought the permission to amend the plaint to include that 1 Acre (40 R) land out of 1 H 30 R land. Hence, prayed to allow amendment application.

3- The defendant resisted the application by filing say. Defendant submitted that the application is filed to prolong the matter. The nature of suit goes to change by proposed the amendment. The matter is posted for cross-examination of plaintiff. Hence, prayed to reject the application with costs.

4- Heard learned advocates for both the parties.

5- Considered the submissions canvassed by the learned advocate for the parties. The plaintiff submitted that due to typing mistake 1 Acre (40 R) land out of 1 H 30 R land has not mentioned in the plaint. The transaction

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under challenge is in respect of only 1 Acre land hence, amendment is necessary. The perusal of entire plaint shows that plaintiff has challenged sale deed dt. 17-07-2012 which is of 1 Acre land and the same has been mentioned in para 4 and prayer clause of the plaint. In my view this is not going to change the nature of suit but only the correction in respect of area of suit property. The defendant has not shown any reason as to how it goes to change the nature of suit. This itself shows the substance in the submission of plaintiff and the application deserves to be allowed on that sole ground. It is also important to note that the nature of suit will not change by allowing the proposed amendment. Hence, the order.

ORDER

- 1- The application at Exh.26 is allowed.
- 2- The plaintiff to carry out amendment as sought in this application within 14 days.

Sd/-

(Ritesh R.Limkar)

Date:26/02/2019

3rd Jt.Civil Judge Junior Division,
Paithan.

Certificate

I affirm that the contents of this P.D.F. file Judgment are the same word to word as per original Judgment.

Name of Stenographer : **Balu Ashruba Age.**

Court Name : 3rd Jt.C.J.J.D. Paithan. Dist : Aurangabad

Date of Judgment : 26/02/2019

Judgment signed by the
presiding officer on : 26/02/2019

Judgment uploaded on : 27/02/2019

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