

ORDER BELOW EXH.57 IN R.C.S.NO. 34 OF 2012

(RajuVs. Machindra + 1)

Read the application and say filed by defendant . Perused the record.

2] The plaintiff has filed the present application for amendment under Order VI Rule 17 of the Code of Civil Procedure, 1908 [hereinafter referred to as “the Code” for the sake of brevity]. It is contended by the plaintiff that while drafting the plaint during the pendency of the suit and plaintiff No. 2 became major who was minor at the time of institution of the suit. Therefore the necessary correction to that effect is required to be added in the plaint. It is contended by the plaintiff that the proposed amendment would not change the nature of the suit. Therefore, the plaintiff has prayed for permission to carry out necessary amendment.

3] Defendant has filed his say to the application wherein he strongly objected the application and prayed for rejection of the application.

4] On perusal of record and documents, it seems that the amendment sought is formal in nature. If the proposed amendment is allowed the same will not change the nature of the present suit in any manner. This is so, because the suit is for partition, separate possession, declaration and for perpetual injunction. The amendment sought for is technical in nature. Furthermore it is pertinent to mention here that the present application has been moved by the plaintiff before framing of the issues. Therefore, the proviso to Order VI Rule 17 of the Code will not come into play. The plaintiff has filed an affidavit in support of the reason mentioned in the present application. However, it is well settled that the inconvenience or delay may be compensated by imposing costs on the

failure party. For the purpose of deciding the matter on merit, equal opportunity is required to be afforded to the parties. Hence, for these reasons the application deserves to be allowed. Hence, the following order :

ORDER

1. The application is allowed on payment of cost of Rs. 200/- payable to the defendants.
2. The plaintiff to carry out the necessary amendment within 14 days from the date of passing the order, else the necessary order will be passed.

Date : 05.10.2017

Signed/-
(H. S. Puradupadhye)
Jt. Civil Judge [J.D.],
Paithan.

CERTIFICATE

I affirm that the contents of this PDF file order are same, word to word, as per the original order.

Name of the Stenographer : Bhalchandra Raosaheb Zende,
Court : Jt. Civil Judge [J.D.], Paithan.
Date of the Order : 05.10.2017
Order signed by the presiding officer on : 05.10.2017
Order uploaded on : 09.10.2017

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