

**ORDER PASSED BELOW EXH.NO.54**

1. Plaintiff moved this application seeking amendment in the plaint vide order 6 rule 17 of C.P.C.
2. According to defendants husband of plaintiff No 4 is having self acquired property No 534 (300 sq feet). Now said property is in the name of plaintiff No. 1. Further plaintiff No. 1 is also having one house property at Mhada Colony Aurangabad in respect of the properties. Plaintiffs wanted to add the clarification for the same as per para No. 5-A.
3. It is stated that, clarification mentioned in proposed amendment para No. 5-A is necessary to determine the real controversy amongst the parties. If said clarification is not provided then it would cause prejudice to the plaintiff compare to defendants. Lastly prayed to allow the application.
4. According to defendants application moved at beleted satge after filling of the written statement. Plaintiff failed to file supporting document to support their contention. Plaintiff had suppressed both properties from the court. As such no legal right is in existence. Therefore, application is deserves to be rejected.
5. Considering the revival contention of the both the parties following points arises for my determination. I have recorded my findings thereon with the reasons as below.

<b>Sr.No.</b>	<b>POINTS</b>	<b>FINDINGS</b>
1)	Whether plaintiff proves that the proposed amendments is essential to determine real controversy amongst the parties?	Yes.
2)	Whether plaintiff is having due diligence for moving the amendment application.?	Yes.
3)	Whether plaintiff is entitled for the amendment as pre Exh 54 ?	Yes.

4) What order?

Application is  
allowed.

### **REASONS**

6. Heard both advocate at length. All point nos.1 to 4 are interlinked to each other. Therefore, I discussed them in altogether for avoid the repetition of the discussion.

#### **AS TO POINT NO 1 TO 4 :-**

7. As per Order 6 Rule 17 of C.P.C. the Court at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and so such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of *determining the real questions in controversy* between the parties. Provided that no application for amendment shall be allowed after the trial has commenced, unless the court comes to the conclusion that in *spite of due diligence* the party could not have raised the matter before the commencement of the trial.
8. In present case defendant filed their w.s. Till today issues are not framed. It appears that, plaintiff wanted to add clarification to the objection raised by the defendants in their written statement. According to plaintiffs both properties are self acquired properties of the plaintiff No. 1 & 4 respectively. Plaintiff mentioned the facts for its acquisition.
9. Till today no trial has been commenced. As per principle of natural justice fair opportunity is required to be given to the plaintiff to put-forth their entire facts to determine real controversy amongst the parties. Considering the delay of 2 years it is desirable to impose cost of Rs. 1000/- on the shoulder of the plaintiff for seeking the

amendment in plaint. I proceed to pass following order.

**ORDER.**

1. Application Exh.54 is allowed on cost Rs. 1000/-. It should be paid to the plaintiffs towards compensatory cost.
2. Cost shall follow the event else further graded cost will be lavied on defaulting party.

Date :- 17-11-2017

Sd/-  
(J. G. Pawar),  
Civil Judge Junior Division,  
Phulambri.

**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 : Miss. Manjushri S. Salve.

Court : Civil Judge Jr. Div. & J.M.F.C. Court, Phulambri.

Date : 17-11-2017

Order signed by the  
presiding officer on : 17-11-2017

Order uploaded on : 21-11-2017