

MHBI060002332013



Regular Civil Suit No. 34/2013.
Limabai & others V/s. Kusum & others.
CNR No : MHBI060002332013.

ORDER BELOW EXH - 188.

Through this application defendant has raised objection that, plaintiff did not amend the plaint as per her application. Concomitantly, it is also prayed that, plaintiff be ordered to make proper amendment in plaint as directed by this Court.

2] Having heard the rival submissions, I am to state that, before advertng to the grievance of defendant raised through this application, it is worth to mention chronological development of the issue in this suit. That vide order below Exh. 59 defendant on 29/02/2024 at the stage of final argument has applied for rejection of plaint under Order 7 Rule 11 of C.P.C. which was rejected on 05/03/2024. The defendant has challenged this order before Hon'ble Parent High Court and Hon'ble Parent High Court was pleased to confirm the order of this Court on 09/08/2024. Thereafter, vide application at Exh. 175 defendant has prayed this Court to direct the plaintiff to correct the valuation of the suit as per the amendment carried out vide order below Exh. 46 and 100 in the plaint. Resultantly, on 04/09/2024 plaintiff was directed to correct the valuation of suit as per the order below Exh. 100. The order below Exh. 100 passed by Ld. Predecessor is in context of

addition of house property in the suit which was passed on 16/06/2017. Resultantly, vide order below Exh. 175, this Court has directed the plaintiff to pay the Court Fee on the house property.

3] On 26/09/2024 vide application at Exh. 182, plaintiff has applied for amendment in plaint as per order of this Court below Exh. 75 in which the Court has directed the plaintiff to pay the Court Fee on the house property as per amendment order below Exh. 100 which was passed in 2017. Exh. 82 was partly allowed by this Court on 07/10/2024 and again plaintiff was directed to pay Court Fee only to the context of house property as amendment below Exh. 100 and as directed below Exh. 175. Accordingly, the plaintiff has paid the Court Fee of ₹ 3,830/- on 26/09/2024. As per the current valuation of house property which was added in the suit by way of amendment at Exh. 100 in 2017.

4] Now through this application it is the grievance of defendant that, plaintiff did not comply with the orders of this Court and has not correct the valuation as directed by this Court vide order below Exh. 75. The Ld. Counsel for defendant Shri. V. N. Karad by his clever twisting argument tried to put the Court in the delima of numbers that, by which Exhibit Number the plaintiff has amended the plaint either by Exh. 100, 175 or 182 and argued that, the plaintiff has not properly complied the order of this Court. On perusal of record, it appears that, the plaintiff has not only valued the suit as directed below Exh. 175, but also has paid the Court Fee as per the current valuation of the house property. Even the Ld. Counsel for defendant was offered to guide this Court

that, how much amount of Court Fee to be ordered to pay to the plaintiff still he did not mention the any number of amount, but remained stick to his argument that, plaintiff did not pay the Court Fee properly and plaintiff be directed again to amend the plaint. I have called the report of Superintendent of this Court who has also submitted that the plaintiff has paid proper Court Fee as ordered by this Court. Therefore, in such circumstances, making the same application again and again with slight change in wordings make no sense, specifically when defendant himself is not clear to his own stand. That the Ld. Counsel for defendant did not clarify that, how much Court Fee the plaintiff should pay. In such circumstances, I do not find any merit in this application specifically when on the basis of same issue as to valuation of the suit plenty of orders by this Court has been passed and the order of Hon'ble Parent High Court is also there to guide this issue. Resultantly, in such circumstances, I have reasons to believe that, by moving of such interlocutory applications even at the stage of argument when plaintiff has finally argued the suit which is more than 10 years old, such applications by the defendant are causing unnecessary delay in the trial. In fact, the defendant appears to have deliberately pushing the suit to the unwarranted hypothetical technicalities. The defendant has not shown any reason that, how the interest of defendant is going to be prejudice by the amendment and orders passed over it. The only motive appears from the claim of defendant and the way in which such kind of applications are being filed one after another is to cause delay in the trial. Hence I reckon to pass following order;

:: ORDER ::

- 01.** Application is rejected with costs of ₹ 1000/- to the legal aid.

Place : Ambajogai.
Date : 16/12/2024.

(Z. Z. Khan)
Jt. Civil Judge (Junior Division),
Ambajogai (MHBI06-2196)

:: Certificate of Stenographer ::

"I affirm that the contents of this PDF file are word to word as per original Judgment."

Dictated On : 16/12/2024.

Transcribed On : 16/12/2024.

Checked & Signed On : 16/12/2024.

Date : 16/12/2024.
Place : Ambajogai.

Sd/-
(Akash Kabne)
Stenographer (Grade – 3)
Jt. C.J.J.D. & J.M.F.C., Ambajogai.