

MHCH100007132019



ORDER PASSED BELOW EXH.40 IN R.C.S. NO. 07/2019

1. The present application is filed by the plaintiff under Order 6 Rule 17 of Civil Procedure Code, 1908, for amendment in the plaint.

2. It is contended by the plaintiff that, he has filed present suit for declaration, partition and separate possession. During the pendency of present suit defendants no. 3 has filed a case under Senior Citizen Act and the plaintiff got knowledge about it in the month of October 2023. Thereafter, the plaintiff obtained certified copy of it and in it, it is admitted that the suit property 'A' is ancestral and also narrated how fraudelently gift deed is executed. Therefore, it is necessary to add pleadings regarding it. Hence it is necessary to amend the plaint. If amendment is allowed it will not cause any prejudice to the other party. Hence, application be allowed.

3. The defendants filed their say and submitted that the amendment is carried at belated stage and only to delay present proceeding hence application be rejected.

4. Perused the application and record, heard both parties. Following points arise for determination, finding to which, with reasons are as follows:-

POINTS	FINDING
i] Whether the plaintiff is entitled to the amendment as sought ?	In the affirmative
ii] What order ?	As per final order.

REASONS

As to Point no.1:-

5. The present suit is filed by the plaintiff for declaration and partition. The issues are framed but evidence of the plaintiff is not commenced. The plaintiff has sought to add pleadings regarding proceedings initiated after the filing of present suit. Considering the nature of suit said pleadings appears to be necessary. Therefore, in order to decide all disputed questions amendment appears to be necessary. Hence, it can be allowed. Therefore, point no.1 is answered in affirmative and point no. 2 is answered as follows.

ORDER

- 1) Application Exh. 40 is hereby allowed.
- 2) The plaintiff is directed to carry out the amendment within 14 days.
- 3) The plaintiff to supply copy of amended plaint.

Date: 18/04/2024.

(Pankaj K.Ahir)
Civil Judge, J.D.,
Mul.