



ORDER BELOW EXH.26

This is an application under Order 6 Rule 17 of the C.P.C. for the amendment of the plaint. Perused the application and reply (Exh.27) filed by the defendant. Heard the learned counsel Shri. R. B. Bomewar for the plaintiff and the learned counsel Shri. T. N. Dhande for the defendant at length.

2. It is the contention of the plaintiff that during the pendency of the instant suit, the defendant has issue a demolition notice dated 17.04.2025 which was served on the plaintiff on 19.04.2025 at 03.00 p.m.. The instant suit is for declaration and permanent injunction. The plaintiff has challenged the notices dated 05.02.2025, 21.02.2025 and 28.02.2025 issued by the defendant. Similarly, it is the contention of the defendant that the plaintiff has made encroachment on the government land. But the forefather of the seller of the plaintiff was the owner of the suit property. Accordingly, there are public documents to that effect. The plaintiff came to know about the said fact during the pendency of the suit. The proposed amendment dose not change the nature of the suit. Likewise, the defendant will not suffer any prejudice. Hence, the plaintiff prayed to allow the instant application.

3. Wide reply (Exh.27), the defendant resisted the instant application on the ground that it is false one. According to the defendant, the plaintiff has made encroachment on the government land. Hence, the defendant prayed for rejection of the instant application.

4. The learned counsel for the plaintiff has placed reliance on the ruling of the Hon'ble Bombay High Court reported in **2016 (1) Mh.L.J 770** between **Rajaram Vs. State of Goa, DLD (Civil)-2022-651** between **Raju Vs. Siddharth** and **DLD (Civil)-2022-1812** between **Aminabi Vs. Janabi**. In the supra rulings, it is held that the amendment which is necessary for deciding real controversy in dispute have to be allowed. He has also placed reliance upon the ruling of the Hon'ble Bombay High Court reported in **DLD (Civil)-2023-2131** between **Mahendra Vs. Ghanshyam**. In the supra ruling, it is held that mere adding a fact in plaint without changing the relief could not in general be said to change the nature of the suit. Lastly, he relied upon the ruling of the Hon'ble Supreme Court of India reported in **DLD (Civil)-2025-3045** between **Mallavva Vs. Kalsammanavara**. In the supra ruling, it is held that power to grant amendment to pleadings is intended to serve the needs of justice and is not governed by any such narrow or technical limitations.

5. I have carefully gone through the record of the case and also gave thoughtful consideration to the submissions made by both learned counsels. It is pertinent to note that by virtue of the proposed amendment the plaintiff wants to bring on record the subsequent events took place during the pendency of the instant suit. As such, the proposed amendment appears to be necessary and germane to decide the real controversy between the parties. The instant suit is at very initial stage. The trial is yet to commenced. Moreover, the proposed amendment does not change the nature of the suit. The proposed amendment appears to be necessary to decide

the real controversy between the parties. Thus, absolutely no prejudice is going to be caused to the defendant if the proposed amendment is allowed. Hence, all the supra rulings are squarely applicable to the case of the plaintiff. For the above elaborated reasons, I am inclined to allow the instant application. Consequently, I proceed to pass following order.

ORDER

1. The application stands allowed.
2. The plaintiff is permitted to carry out the proposed amendment in the plaint on or before next date.
3. The plaintiff is directed to place on record the amended copy of the plaint and further directed to supply copy of the same for the defendant.
4. Costs in cause.

Place : Chimur.
Date : 25.06.2025

(R. D. Bhuyarkar)
CJJD