

ORDER BELOW EXH. 49 IN R.C.S.NO. 7/2019

(Kishor Totaram Thorat Vs. Sunandabia Bhatu Nhyalse)

The present application is filed by the plaintiff for carrying out amendment in the plaint under Order VI Rule 17 of the Code of Civil Procedure.

2] It is averred by plaintiff that present suit is filed by the plaintiff for the relief of declaration and partition. In the said suit defendants have filed their written statement. In the plaint it is mentioned that defendants No. 1 and 3 to 5 have executed relinquishment deed infavour of defendant No.2. However, defendants No. 2 to 5 have executed said relinquishment deed infavour of defendant No.1. However, due to typing mistake instead of defendant No.1 defendant No. 2 is typed. If the said application is not allowed the plaintiff is suffer irreparable loss and it will create multiplicity of the proceedings. Therefore, it is necessary to carryout amendment in para 4, 5, 6 and 11 of the plaint to that effect. Hence, he prayed to allow the application.

3] The defendants have filed their say on the application and submitted that after 5 to 6 years of filing of the suit the present application is filed by the plaintiff. the evidence affidavit on 29.4.2024 by the defendant the present application is filed. The plaintiff is trying to prolong the matter. Hence, they prayed to reject the application with cost of Rs. 3000/- .

4] Perused the record. Heard learned Advocate for both the parties.

5] The present suit is filed by the plaintiff for the relief of declaration and partition. On perusal of the relinquishment deed filed alongwith list of document at Exh.3, it appears that defendants No. 2 to 5 have executed relinquishment deed infavour of defendant No. 1 on 29.11.2018. On perusal of the plaint it appears that defendant No. 1 and 3 to 5 have executed relinquishment deed infavour of defendant No.2. According to the plaintiff due to typing mistake instead of defendant No.1 it is wrongly typed as defendant No. 2. The proposed amendment is nothing but a typing mistake. If the said application is allowed it will not change the nature of the suit. The present application is filed by the plaintiff after 5 years of filing of the suit. Therefore, the application deserves to be allowed subject to payment of the cost to the defendants. Hence, I pass the following order:

ORDER

1. The application is allowed subject to payment of costs of Rs.300/- (Rs. Three Hundred only), payable to defendants.
2. On payment of costs, the plaintiff is directed to carry out amendment in plaint as prayed, within 14 days from the date of this order.
3. The plaintiff is directed to supply the copies of amended plaint on record as per Rules.

Shindkheda.
Date :- 13/02/2025.

(Mangesh R. Kayastha)
Civil Judge, J.D, Shindkheda.

CERTIFICATE

I certify that the contents of this PDF file are word to word as per Original Order.

Name of the Stenographer: Rahul N. Mali

Name of the Court : Civil Court J. D., Shindkheda,

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Sd/-xxx
Stenographer-III