

MHDH070026392023



Order below Exh. 39 in Regular Civil Suit No. 300/2023.
(Passed on the date 07.07.2025)

This is the application of plaintiff under Order VI Rule 17 of the Code of Civil Procedure, 1908.

2. Read the application and say filed by defendants. Perused the roznama and record of the case. Heard Ld. Advocate Shri. H. M. Jain of the plaintiff and Ld. Advocate Shri. N. S. Sonawane of the defendants.

3. Originally suit was instituted with the prayer of perpetual injunction only. By way of present amendment plaintiff wants to add mandatory injunction in the prayer clause. Ld. Advocate Shri. H. M. Jain of the plaintiff contended that due to construction of defendants their window is totally closed. This was not the situation when the suit was instituted. Hence, as construction adjacent to the window is done by the defendants during the pendency of the suit, plaintiff is constrained to make the present amendment application and pray for mandatory injunction.

4. Ld. Advocate Shri. N. S. Sonawane of the defendants through his say objected the application as it will change the nature of the suit.

5. On the perusal of contents in the application it become clear that due to the alleged act of defendants plaintiff is constrained to make the present amendment application. Plaintiff has to pray all the remedies available against the defendants in one suit only. Here, due to the alleged acts of defendants, as the construction adjacent to the window of plaintiff is troubling him, plaintiff's application deserves a consideration. Moreover, as the said act is not on the part of plaintiff, application deserves consideration without any costs. So as to enable the plaintiff to pray all the relevant remedies in one suit and so as to prevent multiplicity of proceedings, I am inclined to allow the present application. Hence, I am passing following order-

ORDER

- 1] Application vide **Exh.39** is allowed.
- 2] No order as to cost.
- 3] Plaintiff shall carry out the amendment on or before next date.
- 4] After amendment, plaintiffs shall give amended copy of plaint on record.
- 5] Plaintiff has to pay proper Court fees and stamp duty as per the A. S. report.
- 6] Assistant Superintendent to report whether plaintiff has paid proper Court fees and stamp duty in view of added prayer.
- 7] Concerned clerk to take the entry of this amendment in the suit register.

Shirpur.
Date : 07.07.2025

(Smt. Pooja N. Kokate)
Civil Judge, J.D. Shirpur, Dist. Dhule.
JO Code-2489

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	Gopal A. Patil.
Name of the Court	Smt. Pooja N. Kokate, C.J.J.D., Shirpur, Dist. Dhule.
Date of dictation	07.07.2025.
Order Signed by P.O. on	07.07.2025.
Order Uploaded on	07.07.2025.