

Order Below Exh.No.38

(Passed on 12-03-2019)

- 1] By this application, the defendants are seeking amendment in written statement under Order 6 Rule 17 of the Code of Civil Procedure 1908, in consequential nature.
- 2] Read application and say. Heard, Shri. K.T.Satpute, the learned advocate for the defendants and Shri. V.G.Chilange, the learned advocate for the plaintiff. Perused record of the case.
- 3] It is contended by the defendants that the plaintiff amended plaint by moving application on 19/11/2018. Therefore, it is necessary to answer newly added pleading in plaint on the part of defendant. Hence, the defendants have prayed for consequential amendment.
- 4] The plaintiff strongly opposed the application.
- 5] Upon considering the contentions of rival parties, the following points arise for my determination and I have recorded my finding thereon for the reasons given thereunder :-

<i>Sr.No.</i>	<i>Points for determination</i>	<i>Findings</i>
1.	Whether the proposed consequential amendment in written statement is necessary to determine the real question in controversy between the parties ?	<i>In the Affirmative.</i>
2.	What order ?	<i>Application is allowed.</i>

REASONS

As to the Points No.1 and 2:-

- 6] Having regard to the arguments advanced from both sides, I have gone through the record. On perusal of record, it shows that the plaintiff amended plaint as per order passed below Exh.35 dated 01/01/2019 and thereby added relief of removal of encroachment. In that

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regard, the plaintiff added certain pleading in the plaint. Under such circumstances, it is a right of the defendants to answer the newly added pleading. Therefore, the defendants moved present application in which the defendants denied newly added pleading of the plaintiff. It is right of defendants either to admit or deny the pleadings brought before the Court by the plaintiff. The defendants are denying newly added pleading. No new plea raised by the defendants nor the defendants raised contradictory defence. Therefore, no prejudice would cause to the plaintiff, if consequential amendment proposed in this application is allowed. On the contrary, it will be helpful to the Court to come to proper conclusion. In view of above discussion, the consequential amendment proposed in this application appears to be necessary to determine real questions in controversy between the parties. Hence, the application deserves to be allowed. In this backdrop, I pass the following order.

Order

- 1] The application (Exh.38) is hereby allowed.
 - 2] The defendants shall carry out necessary amendment on or before 14 days from today.
 - 3] The defendants shall submit amended copy of written statement forthwith after carrying out amendment.
- (Order dictated and pronounced in open Court)

Place-Chamorshi
Dated:- 12-03-2019

Sd/-
(Liladhar D. Korde)
Joint Civil Judge (Jr.Dn.)
Chamorshi.