

MHGA090009502021



IN THE COURT OF JT. CIVIL JUDGE (JUNIOR DIVISION), CHAMORSHI
(Presided Over by S.A. Bhaisare)

Reg.C.S. No.36/2021

Kavita Sudhakar Yelkuchiwar

... **Plaintiff**

-VERSUS-

Anusaya Bapu Dandkewar

... **Defendants**

For Plaintiff	:-	Learned Advocate Shri. K.R. Mhashakhatri
For Defendant	:-	Learned Advocate Shri. D. G. Undirwade

(Order Below Exh.36)
(Dated 25/09/2025)

The present application is made by plaintiff under Order 6, Rule 17 of The Civil Procedure Code, 1908 (in short 'CPC') thereby seeking to amend the plaint. The application is strongly opposed by the defendant by filing her say on the overleaf.

2. Perused the application and reply thereon. Heard Ld. Counsels representing their respective parties.

3. Perused the record. The rules of procedure are handmaid to the administration of justice. A party cannot be refused just relief merely because of some mistake, negligence, inadvertence or even infraction of the rules of procedure. The Court always gives leave to amend the

pleadings of a party, unless it is satisfied that the party applying was acting mala fide, or that by his blunder, he had caused injury to his opponent which may not be compensated for by an order of costs. However, negligent or careless may have been the first omission, and, however late the proposed amendment, the amendment may be allowed if it can be made without injustice to the other side. On this count, the present application needs to be scrutinised.

4. The suit is for partition and possession. The suit is pending at the stage of plaintiff's evidence. The evidence affidavit of the plaintiff has been filed on record at Exh. 18. It shows that the trial has commenced.

5. Perused proposed amendment. It is about the incorporation of the four boundaries of the suit land. It will not fundamentally change the nature of the suit. It is clarifactory in nature. Also, the defendant has every chance to file amended written statement and cross-examine the plaintiff's witness(s) on the proposed amendment. Hence, no prejudice would be caused to the defendant which cannot be compensated adequately in terms of money.

6. The trial has already commenced. There is nothing on record to show that the proposed amendment was not within knowledge of the plaintiff. It cannot be said that inspite of due diligence, the plaintiff could not have raised the matter before commencement of trial. However, the proposed amendment would assist the Court in determining the real question in controversy, to finally adjudicate the matter on merits and to avoid multiplicity of proceedings. Hence, the application deserves to be allowed by passing the following order:

ORDER

1. The application below Exh.36 is allowed subject to payment of cost of Rs.300/-
2. The plaintiff is permitted to carry out the proposed amendment in the plaint on or before 16/10/2025.
3. The plaintiff is directed to supply a copy of the amended plaint to the defendant.
4. Returnable on 16/10/2025.

Place:- Chamorshi
Date:- 25/09/2025.

Sd/-
(S. A. Bhaisare)
Jt. Civil Judge, (Jr.Dn.),
Chamorshi