

MHGO040000352013 	<u>RCS No. 09/2013</u> <u>Tulendra Digambar Katre and Ors.</u> <u>Versus</u> <u>Mustaq Ishaq Sheikh</u>
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ORDER BELOW EXH. 151

This is an application filed by the plaintiffs for the amendment in the plaint as per Order VI Rule 17 of the Code of Civil Procedure.

2. The plaintiffs contended that in paragraph no. 3A at line no. 5 and 13 it is mentioned that galli is shown in green colour in the map. However, due to oversight in line no. 8 it is wrongly mentioned as blue colour instead of green colour. Therefore, it is necessary to amend the said words and to replace them as green colour. Hence, prayed for permission to amend the plaint.

3. The defendant has filed his say and denied the claim of plaintiffs. Defendant contended that plaintiff wants to delay the matter. Present application is not tenable. Hence, prayed to reject the application.

4. Read the application and say. Heard learned advocates for both parties. Perused the record. The plaintiffs have filed the present application under Order IV Rule 17 of the Code of Civil Procedure.

Order VI Rule 17 - *Amendment of pleadings.—The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties.*

Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.

5. As per the above mentioned provision the plaintiffs were required to file the application for amendment at the earlier stage before the commencement of trial. The plaintiffs have not mentioned as to why they have not prayed for the amendment before commencement of the trial. However, the plaintiffs wants to amend the plaint only regarding to the two words as blue colour and to replace them with green colour. From perusal of the plaint it appears that at paragraph no. 3a at some places the word is used as green colour shown in the map. However, it appears that at paragraph no. 3a line no. 8 it is mentioned as blue colour. The said pleading of "blue colour" in the map is not seen in entire pleading or in plaint map. Therefore, it appears that the blue colour is wrongly mentioned by the plaintiffs instead of green colour.

6. The said proposed amendment is therefore appears to be technical in nature. Therefore, if the proposed amendment is allowed, then it would not change the nature of the suit of the plaintiffs. Accordingly no prejudice will be caused to the defendant, if the proposed amendment is allowed. On the contrary, if the proposed amendment is allowed, then it would be helpful in deciding real controversy between the parties. Therefore, I passed the following order.

ORDER

1. The application is allowed subject to cost of Rs. 500/- (Rs. Five Hundred) to be paid to defendant.
2. The plaintiffs are directed to amend the plaint within 10 days from the date of this order.

3. The plaintiffs are directed to provide amended plaint and the necessary copies thereof immediately thereafter.

Date : 15.07.2025

Place : Amgaon

(Sameer Gopal Gunari)
Civil Judge Junior Division,
Amgaon.