

MHGO040009832023

**RCS No. 70/2023****Sanjay Shalikram Ganvir****Vs.****Sakuntala Tularam Ganvir****ORDER BELOW EXH. 26**

This is an application filed by the defendant for amendment in the written statement and say as per Order VI Rule 17 of the Code of Civil Procedure.

2. The defendant contended that in the written statement the defendant has by mistake mentioned the contentions regarding gat no. 104. The said property is not in fact in issue in the present suit. So also there are some grammatical mistakes in Para no. 4 to 7 of the written statement. So also it is necessary to give proper genealogical tree of the parties. So also it is necessary to add some facts regarding death of Baliram Ganvir and his wife Fuleshwari and also regarding his sons. It is necessary to mention the facts regarding family of Baliram and his sons and their legal representatives. Hence, prayed to amend the written statement and say accordingly.

3. The plaintiffs have filed their say (Exh.27) and denied the contentions of the defendant. The plaintiffs contended that the defendant is trying to change the nature of her written statement and defence. The defendant has no right in survey no. 134 and 109. Baliram never constructed any house in city survey no. 134. Hence, prayed to reject the application.

4. Read the application and say. Heard learned advocates for both parties. Perused the record. It appears that the defendant has filed the present application under Order VI 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, it is necessary to see whether the proposed amendment is necessary to determine the real controversy between the parties. From perusal of the record it appears that the issues are not yet framed. The trial of the suit is not yet commenced. From perusal of the proposed amendment it appears that the defendant wants to correct some grammatical mistakes in her pleading. The said grammatical mistakes and proposed amendment thereof are seen to be technical in nature. Therefore, it would be proper to allow the defendant to amend her pleading regarding grammatical mistakes.

6. The defendant wants to correct the genealogical tree in her written statement. From perusal of the pleading of the defendant it appears that the defendant has already given family tree in her written statement. The defendant wants to correct the family tree. As the trial is not yet commenced, it would be proper to give opportunity to the defendant to make some changes in her defence by explaining the proper genealogical tree. Hence, it would be proper to give permission to the defendant to amend her pleading and to correct the family tree as

prayed.

7. The defendant want to add some pleading after para No. 15b as mentioned in the application. From perusal of the said proposed amendment, it appears that the defendant is trying to bring on record some facts regarding the family of plaintiffs and their predecessor. It would be proper and legal to give sufficient opportunity to the defendant to amend her pleading and to put the defence at the earliest stage of the suit. From perusal of the proposed amendment, it appears that it is relating to the person namely Baliram and his family. The said proposed amendment is also seen to be related in respect of the suit property and the devolution of the interest. Therefore, the said proposed amendment is seen to be helpful in deciding the real controversy between the parties. Hence, it would be proper to give ample opportunity to the defendant to amend her pleading as early as possible. Hence, I pass the following order ;

ORDER

1. The application (Exh. 26) is allowed subject to costs of Rs. 300/- to be paid to the plaintiffs.
2. The defendant is directed to pay the costs amount and to carry out the amendment in the written statement and say as mentioned in the application within 14 days.
3. The defendant is also directed to supply the amended written statement and say with necessary copies thereof within 14 days from the date of this order.

Date : 09/12/2025.
Place : Amgaon

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