

ORDER BELOW EXH.14

(Passed on 02nd December, 2020)

The present application filed by the plaintiff Under Order 6 Rule 17 of the Code of Civil Procedure for amendment in plaint as well as in the temporary injunction application below Exh. 5.

2. It is the contentions of the plaintiff that he has received a copy of registered sale deed which was executed by the defendant no. 1 Bhaiyyalal in favour of defendant no. 2 to 5 in respect of Gat No. 348/1/A/1 admeasuring area 0.96 H.R. agricultural land situated at Wadegaon, Taluka Deori District Gondia. It is the further contentions of the plaintiff that after perusal of said registered sale deed it appears that the defendant no. 1 executed said sale deed for an area of 0.76 H.R. agricultural land out of 0.96 H.R. agricultural land in respect of Gat No. 348/1/A/1 in favour of defendant no. 2 to 5. Therefore, the plaintiff wants to amend the present suit as well as temporary injunction application below Exh. 5 by adding "0.76 H.R. out of 0.96 H.R." It is further contentions of the plaintiff that nature of the suit will not be change by the said amendment. Therefore, the plaintiff filed the present application for amendment in the plaint as well as temporary injunction application below Exh. 5.

3. Defendant no. 1 to 5 filed their say wherein they submitted that said amendment will change the nature and description of the suit property. Defendants further submitted that said amendment is a material fact. Defendants further submitted that due to said amendment they will suffer the loss. Hence, defendants prayed for rejection of the present application.

4. Heard learned advocate Mr. M. C. Pogle for the plaintiff

and learned advocate Mr. M. S. Shahare for defendants.

5. Perused the record. After perusal of record it appears that the present suit filed by the plaintiff for partition, separate possession and declaration.

6. As per Order 6 Rule 17 of the Code of Civil Procedure the court may at any stage of the proceeding in the interest of justice allow amendment in the pleading. No application for amendment shall be allowed after trial has commenced, unless court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of the trial.

7. The present suit is relating to the immovable property. The plaintiff wants to amend the present suit as well as temporary injunction application below Exh. 5 by adding "0.76 H.R. out of 0.96 H.R." which will not change the nature of the suit. The proposed amendment is necessary for just and effective decision of the suit. If the application is allowed no prejudice will cause to defendants. Moreover, it will avoid the multiplicity of the proceedings. Therefore, in such circumstances, the present application needs to be decided. So, in the interest of justice I proceed to pass the following order.

ORDER

1. The present application is allowed subject to costs of Rs. 1000/- (One Thousand Only) payable to defendants on or before next date.
2. The plaintiff is permitted to amend his written statement as well as temporary injunction application below Exh. 5

within 14 days from the date of this order.

3. The plaintiff shall supply fresh copy of written statement as well as temporary injunction application on next date without any fail.
4. If the plaintiff failed to comply the present order then the present order is automatically set aside.

Date:- 02-12-2020

Mohmad Wasim Akram
S/o Mohmad Jalal Sheaikh
Civil Judge Junior Division
Deori