

Reg. Civil Suit No. 28/2020

Hetram & Ors. Vs. Pralhad & Ors.

ORDER BELOW EXH. 74
(Passed on 10/11/2025)

Read application. This is a suit for prohibitory injunction. The plaintiff has filed application for carrying out amendment in their plaint. Heard both the sides. Gone through the provision of Order 6 rule 17 of the Code of Civil Procedure.

2. By this application, plaintiffs want to add that, on measurement of June 2020 of suit land, plaintiff moved application for correction of resurvey at Dy.S.L.R., office Tirora and its related facts.

3. Defendants have raised strong objection that, plaintiffs have examined in all six witnesses and considering cross examination of their witnesses, plaintiff want to fill up lacunae by proposed amendment. As per plaintiffs, they have measured the land in the year 2021 and has filed present application on 15/07/2025, at a very belated stage. Hence, application is out of limitation and amendment is not permissible. They have further stated that the list of documents below Exh. 39, shows that plaintiffs have filed documents of measurement so the pleading that they have received certified copies on 06.02,2025 is false. Hence, application be rejected.

4. I have gone through the entire record. It is an admitted fact that plaintiffs have examined six witnesses. It also appears from the record that, list of documents below Exh. 39 is filed on 03.01.2023

which shows that said map of June 2020 is placed on record. Apart from this, list below Exh. 4 also shows that, plaintiffs have copy of said map of the year 2020. That means, at the time of filing of suit plaintiffs were having knowledge of said measurement map. Moreover, plaintiffs have filed that application to Dy.S.L.R, Tirora, so they must have knowledge of this fact at the time of filing of the suit. Therefore, plaintiffs received documents on 06.02.2025 is not believable.

5. It is also pertinent to note that, after examination of measurer, plaintiffs have placed this application which does not shows due diligence on their part which is essentially required under Order 6 rule 17 C.P.C. Moreover, as per contents in their application, it can be easily inferred that they have ignore towards this fact and ignorance is not acceptable in Law.

6. At the stage of evidence part heard, present application has been put forth. That means, already trial has been commenced since long. Plaintiffs have examined six witnesses. It is not a proper stage to make any kind of amendment in pleading of either party as per provision of Order 6 Rule 17, C.P.C. Plaintiffs have also not acted due diligently and they have not specifically stated or explained the reason for filing present application at a belated stage. Because if they have received certified copy of measurement map and documents on 06/02/2025 i.e. during pendency of the suit, then how below Exh. 39 and 4 such documents are placed on record. Though it can be considered that they have received documents on such date but this fact is within their knowledge as they have applied before Dy.S.L.R., Tirora.

7. Unless, without due diligence, the party is not able to brought proposed amendment within time, then in such circumstances only, at any stage amendment can be allowed subject to provision of the Code. As per proviso to Order VI Rule 17, CPC, no applications for amendment are allowed after the trial has commenced, unless the court comes to the conclusion that inspite of due diligence, the party could not have raised the matter before the commencement of trial. Plaintiffs failed to show about due diligence. Hence, in view Order 6 Rule 17, the application deserves to be rejected. Hence, following order.

ORDER

Application at Exh. 74 is hereby rejected.

Date :- 10/11/2025

(A. T. Bansod)
Civil Judge, (J.D.), Tirora
District - Gondia