

ORDER BELOW EXH. 108

1. This is an application under Order 6 Rule 17 of C.P.C. for amendment in plaint.
2. It is contended that, the plaintiffs have filed suit for possession of suit property bearing Gat No. 194/1, 195/1, 197/6, 197/1/1, 197/5/1 to the extent of area mentioned in para No. 3 of the plaint. Thereafter, plaintiffs have adduced their evidence. During evidence of defendants, they have filed copy of consolidation and at that time plaintiffs came to know that old Gat No. 197/5/2 and 197/1/2 are wrongly shown in name of ancestor of defendants. Therefore, now plaintiffs want to add proposed amendments for correction of their pleading and seeking declarations to the effect that plaintiff Nos. 1 to 10 are the legal owners of Survey No. 160/1 and 161/1 being legal heirs of late Ramji.
3. The defendants have opposed present application. It is contended that the present application is filed after commencement of trial and plaintiffs could have present said fact at the time of filing of plaint by exercising due diligence. Moreover, the propose amendment will the nature of suit and will prolong the matter. It is further contended that the plaintiffs have wrongly stated that their ancestor was owner of land survey number 197/1/2 and 197/5/2 and defendants are only owner of survey No. 161, therefore, the application is liable to be rejected.
4. Perused record, application and say. Heard both sides.
5. It is significant to note that, the plaintiffs have filed present suit for possession of land Gat Nos. 194/1, 195/1, 197/6, 197/1/1, 197/5/1. It is averred in the plaint that the even though area of Survey No. 161/1 shown as 3.29 H.R. but on the spot the area will be 2.40 H.R. and there is clerical mistake by land record. Therefore, they have sought prayer to get possession of 0.80 H.R land from defendants. However, by way of proposed amendment plaintiffs are proposed to seek declaration

that they are owners of Survey No. 160/1 and 161/1 which is admeasuring 0.92 H.R. (0.30 H.R. + 0.54 H.R.). Moreover, record shows that the aforesaid facts came to the knowledge of plaintiffs when defendants filed copy of consolidation on 23/09/2025 below list Exh. 107. There is nothing on record to show that the said document was within knowledge of plaintiffs before commencement of trial. No doubt plaintiffs could have make necessary search with revenue record before filing of this suit, but I am of the opinion that said inaction of part of plaintiffs does not appear to deliberate or intentional. Considering the pleadings, nature of suit and issued involved, I am of the opinion the proposed amendment goes to the root of matter and it is necessary for just and effective adjudication of the dispute. No doubt prayer of declaration is sought to be add by way of proposed amendment. However, the said prayer is consequential in nature and necessary for proper disposal of suit.

06. In light of aforesaid facts and discussion thereon I am of the opinion that the plaintiffs are made out sufficient case for allowing proposed amendment. No doubt some delay is caused for which suitable cost to the defendants will suffice the purpose. Hence, I proceed to pass following order:-

ORDER

- 1] The application at Exh.108 is hereby allowed and plaintiffs are permitted to carry out the proposed amendment on cost of Rs.500/- payable to each defendants.
- 2] The necessary amendment be carried out within 14 days and copy of the same to supplied the defendants accordingly.

Date- 16/04/2026

(A.S.Agrawal)
Jt. C. J. J. Division, Tirora.