

MHJN020011372023	Spl.C.S.No.221/2023 Pandurang-Vs-Vimal & Ors
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ORDER BELOW EXH.22
(Dated 14.01.2025)

1. Plaintiff has filed present application under Order VI Rule 17 r/w 151 of The Code of Civil Procedure for amendment of plaint.

2. Plaintiff submits that,he has filed present suit for declaration that,he is owner and possessor of 03H.61R.out of 12H. 88R. land of Gut no.223. Likewise, he claims declaration that,the compromise decree in Land Acquisition Reference no.65/2004 dated 15.12.2009 is not binding on the rights of plaintiff, as said compromise is based on false and fabricated pursis.

3. Plaintiff submits that,he also seeking declaration that, the decree in R.C.S.no.109/2000 and withdrawal of R.C.A.no.33/2002 is not the voluntary acts of the plaintiff and same is not binding on the rights of the plaintiff.

4. Plaintiff submits that,he did not sign over the withdrawal pursis in R.C.A.no.33/2002 and the decision in R.C.S.no.109/2000 and R.C.A.no.33/2002 are passed back behind the plaintiff. Likewise,plaintiff had not executed any affidavit on 27.04.1995 before Land Acquisition Officer/Sub-Divisional Officer,Jalna, hence said affidavit is not binding on the rights of plaintiffs.

5. Plaintiff submits that,at the time of filing suit, he was mentioned his land Adm.03H.61R. out of Gut no.223 situated at

Nagewadi. Initially, plaintiff pointed out suit property within four boundaries but inadvertently, plaintiff claimed that, sale-deed bearing no.4884/2020 dated 05.12.2020 executed by defendants no.1 to 4 in favour of defendant no.5 is not binding on the rights of plaintiff and same may be set-aside.

6. In spite of above said claim, plaintiff wants to amend the above said pleading substituting the sentence that “The sale-deed to the extent of 03H.61R. is not binding on the rights of plaintiff and to that extent it is liable to be set-aside.”

7. Hence, present application for-

- i) Amendment to amend the plaint claim clause 1 to 6 by giving numbering to them as “(A) to (EE)”.
- ii) Amendment to claim clause 5 at line no.4.
- iii) Amendment to line no.2 at claim clause no.5 by deleting numeric “224” substitute thereat “223”.
- iv) Amendment to claim clause ‘E’ line no.4.

8. Defendants strongly objected the application and submit that, application for amendment is not tenable in the eyes of law, because admissions given in plaint can not be withdrawn under the garb of amendment. Defendants further submit that, due to proposed amendment nature of the suit will be change. Plaintiff's suit is not for partition, hence he can not claim amendment. Application filed by the plaintiff is not tenable, same may be rejected.

9. Perused application and say.

10. Heard.

11. After perusal of record,it appears that,plaintiff has filed the present suit for declaration. As per plaintiff contention inadvertently initially he did not mentioned his area for the purpose of declaration. Now, plaintiff came to know that,he wants to claim declaration to the extent of his share by depositing proper court fees. Plaintiff is seeking amendment in plaint by substituting some numerical, arithmetical mistake, due to which no nature of suit will be change nor any prejudice causes to defendants. For proper adjudicate the suit litigation it is just and relevant to amend the plaint as per contents of the application. Yet trial is not commenced. In such circumstances, application filed by the plaintiff is proper one. Accordingly, order follows :

ORDER

1	The application is hereby allowed.
2	Six claim clauses be amended by giving them alphabates "A,B,C,D,E & EE".
3	Claim clause 5 line 4 be amended to contents of area and declaratory relief.
4	Claim clause 5 line 2 be amended as "223" by deleting "224".
5	Claim clause "E" line 4 be amended as per prayer of the plaintiff.

Date: 14.01.2025

(Dilip S. Thorat)
Civil Judge (Sr.Divn.)
Jalna

C E R T I F I C A T E

I am stating that, the contents of this P.D.F. file are word to word as per original order.

Name of Stenographer : Shirish D.Deshmukh
Name of Court : Civil Judge(Sr.Divn.), Jalna.
Date of PDF : 14.01.2025.

Steno(M.)