

MHJN040026532024



R.C.S. No.333/2024  
Sudhakar Maske  
Vs.  
Tirtharaj Jaykar & Ors.

**Order passed below Exh.27**  
(Passed on 23<sup>rd</sup> June 2025)

The present application is filed by the plaintiff under Order VI Rule 17 of the Code of Civil Procedure for addition of pleadings and prayer.

2. According to the plaintiff, present suit is filed for modification in pleading in para No.3 of the plaint. According to the plaintiff, para No.3 of the plaint reads as under.

“ ३) हे की, वादीने चालू शेती वर्षी खरीप हंगामात कापूस, तूर व सोयाबीन या पिकाची पेरणी केली आहे. तसेच, वादग्रस्त मिळकतीमध्ये ५०० मोसंबीची झाडे देखील आहेत. तसेच, वादग्रस्त मिळकतीमध्ये विहीर देखील आहे. प्रतिवादींनी वादग्रस्त मिळकतीमधील काही जमीनीत ज्वारीची पेरणी केलेली आहे”

So far as underlined portion of above para is concerned, the plaintiff wants to modify it as under.

ज्वारीची या शब्दानंतर “ ०२ एकर जमीनीवर बळजबरीने ज्वारीची पेरणी करण्याच्या तयारीत आहेत ”

3. Defendant filed say at Exh.33 and submitted that the plaintiff is seeking material change in the plaint an if the present amendment is allowed as a matter of fact, the plaintiff will give their material admission in respect of possession and cultivation in the suit land. It is further submitted that the plaintiff did not utter a single word in respect of above modification during the entire proceeding before Hon’ble District Court and Hon’ble High Court. This application is nothing but an afterthought to

cure the defect after order passed by the Hon'ble High Court and Hon'ble District Court. Therefore prayed for rejection of the application.

4. Heard both sides. Ld. Advocate for the plaintiff has relied upon 8 Judgments of Hon'ble High Court and Hon'ble Supreme Court. He specifically relied upon Judgment of Hon'ble Punjab and Hariyana High Court in *Nawal Kishor Vs Jatindar and ors. 2014 (1) Civil Court cases 096 (P.H.)*, wherein it was observed that in the trial Court, sometimes pleadings are not properly drafted and merely on technicality the relief should not be denied. In remaining Judgments, it has been held that merits or correctness of proposed amendment need not be considered while allowing amendment application. Similarly, the power to allow the amendment is void and liberal approach should be the general rule. Technicalities of law should not be permitted to hamper the Court and it can be allowed in the pleading to avoid multiplicity of litigation.

5. On the contrary, Ld. Advocate for defendant argued that paragraph 3 of the plaint shows admission as to possession of the defendant which can not be strike out by way of amendment and if amendment is allowed, great prejudice will be caused to the defendant. He further relied upon the Judgment of *Hon'ble Supreme Court of India in M/s. Modi Spining Vs M/s. Ladha Ram & Company, ( 1977 A.I.R. Supreme Court, 680)* and in *Hiralal Vs Kalyanmal 1998 A.I.R. Supreme Court 618*, wherein it was held that “defendant can not be allowed withdraw a clear admission of fact and taking inconsistent stand affecting prejudicially the plaintiff.”

6. Perused the Judgment, it is to be noted that judgments relied upon by the defendants, are in respect of amendment to the written

statement. However, Judgments relied upon by the plaintiff are in respect of amendment to the plaint. Considering settled law in respect of amendment, and specifically in view of Judgment of Nawal Kishor (*Supra*), it is to be noted that if there is error in drafting of pleadings, amendment can be allowed. So far as prejudiced to the defendant is concerned, inconsistency in the pleadings if any will be considered at the time of trial and merits or correctness of proposed amendment need not be considered while allowing amendment application, as held by Hon'ble High Court.

7. It is also to be noted that the suit is at the stage of framing of issues and trial has not yet commenced. Therefore, in view of above discussion, proposed amendment is required to be allowed. Hence, following order.

**-ORDER-**

1. Application is allowed.
2. Since, the present matter is made time bound by the Hon'ble High Court, the plaintiff is directed to carry out amendment on or before next date i.e. 26.06.2025.

Date: 23.06.2025

Jt. Civil Judge Junior Division,  
Ambad.

**CERTIFICATE**

I affirm that the contents of this PDF file are word to word as per original Order.

Name of Steno : S.M. Sapkal

Name of the Court : Jt. Civil Judge (J.D.), Ambad

Date : 25.06.2025

Sd/-  
Signature of Stenographer