

Order below Exhibit 15

1. The present application is filed by plaintiff under order VI Rule 17 of Civil Procedure Code to make certain amendments in plaint and application at Ex. 5.

2. The plaintiff contended that, the present suit is filed for perpetual injunction regarding suit property plot no. 5 and 9 located in old survey no. 308 and new survey no. 247, admeasuring 200 Sq. feet, located at Partur Tq. Partur, Dist. Jalna. Municipal Council Partur further gave house no. 5055 to these two plots.
Four boundaries of suit property are:
Towards east- Plot no. 6 and 8
Towards South - 15 Feet road
Towards west - Plot no. 4 and 10
Towards North – 6 meter Road
Located at Partur Tq. Partur, Dist. Jalna.

3. He further contended that, while filing suit plaintiff failed to mentioned regarding road located towards east side of suit property. The said portion was not mentioned in plaint due to technical error. Hence he filed present application.

4. The amendments which plaintiff wants to make in plaint and Exh. 5 are –
 - i) In the line no.5 towards east side plot no.6 and 8 **after that**, he want to mention “at present condition there is road”.

- ii) In paragraph no.4 line no.4 towards east side plot no.6 and 8 **after that**, he want to mention “at present condition there is road”.
- iii) In prayer, paragraph no.2 line 5 towards east side plot no.6 and 8 **after that**, he want to mention “at present condition there is road”.
- iv) In the application at exhibit 5 in line no.6 towards east side plot no.6 and 8 **after that**, he want to mention “at present condition there is road”.
- v) In the application at exhibit 5, in paragraph no.4, line no.4 towards east side plot no.6 and 8 **after that**, he want to mention “at present condition there is road”.
- vi) In prayer of application at exhibit 5, in paragraph no.2, line no.6 towards east side plot no.6 and 8 **after that**, he want to mention “at present condition there is road”.

5. The plaintiff further contended that, this amendment in plaint and exhibit 5 will not effect on main suit and written statement of defendant. This amendment will not change basic structure of plaint and basic nature of suit. Hence, prayed to allow the application.

6. On the contrary, defendants filed their say. They contended that, the plaintiff has filed this application only to cause delay in further proceeding of suit. The plaintiff has made this application without any inquiry and on the basis of mere doubt. If this application will be allowed defendant may suffer from irreparable loss and the basic nature of the suit will be changed. Hence, they prayed to reject this application.

7. Perused the application and say. Heard both sides. In my view the object of the rule is that court should try the merits of cases that come before them and should consequentially allowed all amendments that may be necessary for determining the real question in controversy between the parties provided, it does not cause injustice or prejudice to other side.
8. On perusal of pleading it appears that, the plaintiff has mentioned the words which he wants to add by way of amendment, in some part of his pleading. It also appears that, the fact which plaintiff want to amend was within his knowledge. Thereafter, it is necessary to look into the object of order VI Rule 17. The object of amendment is to avoid multiplicity of litigation and decide the rights of parties by total adjudication.
9. Considering the object of order VI Rule 17 and application on record, I found that the present amendment is necessary for just and proper decision of the controversy between the parties. The said amendment will not change the nature of the suit. It is further clarified that, this amendment can be allowed just to correct the technical error. This amendment does not mean that, plaintiff has prima facie establishing his case or defeating any right of defendant to represent his case. Whereas, the defendant is at liberty to file additional written statement if he wants. In my view considering the nature of suit and to avoid multiplicity of proceeding and for determination of real question in controversy application deserved to be allowed. Hence I pass following order.

ORDER

- 1] Application below Exh. 15 is allowed.
- 2] Plaintiff is directed to carry out the amendment within 14 days from the date of this order.

Date : 28/02/2019

(Smt S.J. Nimbalkar)

Jt. Civil Judge Junior Division,
Partur