

MHKO050043612019



**Reg.Civil Suit No.331/2019**  
Sarada Export Corporation  
Vs Ramesh Rajaram Dhamane & others

**Order below Exh.25**

(1) The plaintiff moved this application under Order 6 Rule 17 of the Code of Civil Procedure and prayed to add the following paragraphs in the plaint.

(i) In paragraph No.1 of the plaint plaintiff want to add “plaint map”. Plaintiff further want to add that during the pendency of the suit, the defendant Nos.1 and 2 made encroachment in suit property as described ‘CDGH’ of measurement map of private engineer and defendant No.3 and 4 made encroachment in suit property as described ‘CDGH’ of measurement map of private engineer. The plaintiff further want to add the word ‘the map of private engineer’ in this paragraph.

(ii) After the paragraph No.4 plaintiff want to add paragraph No.4(a) and thereby plaintiff want to add that the sale deed executed by defendant No.3 in favour of defendant No.1 and 2 and sale deed executed by defendant No.6 in favour of defendant No.1 and 2 are illegal and not binding and plaintiff prayed to declare the same as not binding on him.

(iii) In para No.1 and 9 plaintiff want to make correction in valuation of suit property according to relief prayed in proposed amendment.

(iv) In paragraph No.6(e) plaintiff want to add the

word “in the suit property” and the plaintiff want to further add that defendant No.1 and 2 made encroachment to the extent of ‘CDGH’ and defendant No.4 and 5 made encroachment to the extent of ‘ABEF’ as described by the private engineer in his map.

(v) The plaintiff further want to add paragraph No.F in relief clause and want to add that, “it be declared that sale deed executed by defendant No.3 in favour of defendant No.1 and 2 and sale deed executed by defendant No.6 in favour of defendant No.4 and 5 is not binding on the plaintiff”.

(2) Defendants failed to file reply despite opportunity had been given to them.

(3) Learned counsel for plaintiff submitted that plaintiffs are due diligent. Yet issues have not been framed. Proposed amendment is necessary for settle the controversy between the parties.

(4) It is fact that initially plaintiff had filed suit for relief of perpetual injunction and according to plaintiff, defendant made encroachment during pendency of the suit. So, it is reason to believe that in spite of due diligence the plaintiff could not have raise the matter before the commencement of trial. The proposed amendment is in respect of the subject suit property and connecting to the prayer of perpetual injunction. The proposed amendment is within time, not changing the nature of the suit property and relief claimed and necessary for the purpose of determining the real question in controversy between the parties.

So, I am of the considered opinion that this is the fit case to permit the plaintiff to make the necessary amendment as claimed. Hence, I proceed to pass the following order.

**ORDER**

- 1) Application is allowed subject to costs of Rs.1,000/- payable to TLSC, Hatkanangale.
- 2) Plaintiff shall make necessary amendment and supply copy of amendment plaint within 7 days from the date of this order.

Date-07/09/2021  
Ichalkaranji

sd/-  
(P. S. Bhandari)  
2<sup>nd</sup> Jt. Civil Judge Junior Division  
Ichalkaranji

I affirm that the contents of this P.D.F. file Judgment/Order are same word to word, as per the original Judgment/Order.

Name of the Stenographer	V.P.kadam, stenographer Grade III
Name of Court	2 <sup>nd</sup> Jt. C.J.J.D. & J.M.F.C.Ichalkaranji
Date of Decision	07/09/2021
Judgment/Order signed by the P.O. on	07/09/2021
Judgment/Order uploaded on	07/09/2021