

MHKO070009982016



REGULAR CIVIL SUIT No. 186 / 2016
Mathura alias Sangita Kokare & ano. Vs. Rajubai Kokare & oth.
ORDER BELOW EXH. 44 [I.A. No. 1 / 2023]

This is an application by defendant Nos. 1 to 5 under Order VI Rule 17 of C.P.C. According to them, marriage of defendant No. 3 and Shivaji Kokare was solemnized on 16.05.1990, but due to typographical mistake it is wrongly mentioned as 14.05.1990 in their Written Statement at Exh. 16. As it is typographical mistake but important concerning the subject matter, defendants are requesting to change said date appearing in Paragraph No. 7 of their Written Statement.

2- Plaintiffs filed say at Exh. 45 and strongly objected on the ground that defendants obtained Marriage Certificate at Exh. 32/4 on 08.06.2022 and they moved this application on 22.06.2023. According to them, defendants were not vigilant enough while making pleading. Not only that, even after obtaining said document on 08.06.2022, defendants have intentionally avoided to move this application for more than one year only to delay the matter. Plaintiffs accordingly requested to reject the application.

3- Perused application and say. Also perused record and proceeding. Heard learned Advocates for both sides.

4- Issues are already framed and cross-examination of P.W.No. 1 is also over when this application is moved by defendants. As such, there is strict rigor of provisions of Order VI Rule 17 of C.P.C. applicable at this juncture.

5- Vide issue No. 1 framed at Exh. 17, burden to prove marriage of plaintiff No. 1 with Shivaji Kokare is cast on plaintiffs. Proposed amendment is in respect of date of marriage between defendant No. 1 and Shivaji Kokare. However, insofar as said typographical mistake in Written Statement is concerned, there is not much contest raised by plaintiffs. Their only contention is in respect of delay caused by defendants to bring on record said

material aspect, when they have already obtained relevant document about 1 year ago. Considering the date of obtaining Marriage Certificate at Exh. 32/4, said version of plaintiffs appears to be genuine, and thereupon it can be seen that defendants are not vigilant enough to bring on record said typographical mistake.

6- Come what may, it is clear from the version of plaintiffs that they are not much resisting about the typographical mistake of defendants while filing Written Statement at Exh. 16. It is also evident from record that after obtaining Marriage Certificate at Exh. 32/4, defendants come to know exact date of marriage of defendant No. 1 and Shivaji Kokare and therefore they are now intending to get it corrected in their pleading. Considering the background of the proceeding till date and eventualities took place in it till date, I am of the view that if proposed amendment is allowed, no prejudice will be caused to plaintiffs. At the same time, delay caused by defendants in moving this application is also required to be weighed in favour of plaintiffs. Accordingly, I am of the view that application deserves to be allowed by saddling costs on defendants for the cause of delay. Thus following order.

ORDER

- 1- Application is allowed subject to costs of Rs.500/- (Rs. Five Hundred only) payable by defendants to plaintiffs, as condition precedent.
- 2- Defendants are directed to carry out suitable amendment in their Written Statement at Exh.16 on or before next date.
- 3- Failure by defendants in any of the abovesaid will automatically result into nullity of this order, as per provisions of Order VI Rule 18 of C.P.C.

Sd/-

(**Anand D. Karbhajan**)

Jt. Civil Judge (Junior Division),
Jaysingpur, Tq. Shirol, Dist. Kolhapur

Date : 07.12.2023

Place : Jaysingpur

Note - The validity of digital signature of Presiding Officer has expired.

-: Certificate :-

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

Name of Stenographer	Mrs. Pallavi V. Sasane
Name of Court	Jt. CJJD & JMFC, Jaysingpur, Tal. Shirol, Dist. Kolhapur.
Date of Decision	07/12/2023
Judgment / Order signed by the P.O. on	07/12/2023
Judgment / Order uploaded on	07/12/2023