

MHKO070024272023



**ORDER BELOW EXH.41 IN SPECIAL CIVIL SUIT NO.76/2023.**

**Sou.Vandana Subhash Potdar etc.**

**V/s.**

**Sou.Parvati Ramesh Hatalge etc.**

Plaintiff No.2 has moved the present application for amendment of plaint by taking recourse to Order 6 Rule 17 of the Code of Civil Procedure, 1908 contending therein that, defendant No.1 has made illegal construction on the suit property and so plaintiff has sought the relief of mandatory injunction by removing the alleged construction on the suit property.

Application is strongly opposed by the defendant No.1 by filing say below Exh.42 on the ground that, plaintiff has no right to demand such a relief by way of amendment and the proposed amendment would change the nature of the suit and so, application be rejected with cost.

2. Heard both learned counsels for the parties. Perused record. It appears that, present suit is for declaration alongwith cancellation of the sale-deed with perpetual injunction. Contention of the plaintiff is to the effect that, defendant No.1 has raised illegal construction, which she wants to remove by way of mandatory injunction. Proposed amendment would not change the nature of the suit but, it appears that, suit is at the stage of evidence. So, grievance

of the defendant can be compensated in terms of cost and also defendants have right to contravene the facts. Consequently, following order.

**ORDER**

1. Application is allowed subject to cost of Rs.500/-.
2. Permission granted for amendment as mentioned in the application after payment of cost.
3. Plaintiffs to carry out amendment accordingly and file copy of amended plaint within fourteen days.

Jaysingpur.  
Date : 08/04/2025.

**(Y.H.S. Deshmukh)**  
Civil Judge Senior Division,  
Jaysingpur, Dist.Kolhapur.