

MHKO090004862019



ORDER BELOW EXH. 20 IN REG. CIVIL SUIT NO. 192/2019

1. Perused the application and say. In the application, it is submitted by the plaintiff that now defendant No. 2 has become major, so title clause of the plaint is to be amended and name of the next friend is required to be deleted. The objection is raised by the defendant that for that purpose, Order VI Rule 17 of the Code of Civil Procedure cannot be invoked and it should be filed under Order XXXII Rule 9 of the Code of Civil Procedure.
2. Perused the application and say. Order XXXII Rule 9 of the Code of Civil Procedure is regarding removal of next friend. It says that when interest of the next friend is adverse to the minor or some for other reason, he cannot act as a next friend, his name can be removed and anyone else can be appointed as a next friend. In short, Order XXXII Rule 9 of the Code of Civil Procedure is regarding a situation wherein next friend or guardian can be removed. I do not find that this rule is applicable for the present situation. In the application in hand, the guardian is not to be removed for some other reasons. Defendant No. 2 has now become major and he does not require any representation through guardian, as such, the amendment is sought. Hence, Rule 9

is having no relevance. Even otherwise, the application is not required to be rejected, just because it is filed citing wrong provision. The situation will not change due to citing wrong provision. As on today, defendant No. 2 has become major and got capacity to prosecute the suit on her own, therefore, the suit is to be amended accordingly. Hence, I find that the application is liable to be allowed. No prejudice will be caused to the defendants. Hence, I pass the following order -

ORDER

1. Application Exh. 20 is allowed.
2. The plaintiff is permitted to amend the plaint as prayed in the application.
3. The amendment shall be carried out within 14 days from the date of this order and the copy of amended plaint shall also be filed within same period.

Sd/-

Date : 28.09.2021

(G. V. Deshpande)
Civil Judge Senior Division,
Gadhinglaj