

ORDER PASSED BELOW EXH.29
IN R.C.S.NO.54/2017.

The plaintiff has filed the present application under Order-VI, Rule-17 of the Code of Civil Procedure, 1908 for amendment of plaint.

2. By this application, the plaintiff has contended that they have filed the present suit for removal of encroachment. It is contended that, in the present suit there are in all 30 defendants. Out of them, few defendants are served. However, the name of the defendant no.20 is mentioned as “Vimal Suresh Nare”. However, it is reported that, no such Nare person is residing in the village. It is contended that, in view of the 7/12 extract of Gat no.232, it is seen that, the name of the defendant no. 20 is “Vimal Suresh Nare” However the correct name of the present defendant No.20 is “Vimal Suresh Nande”. Therefore, by the proposed amendment, the plaintiff wants to correct the name of the defendant no.20, in the title clause of the present suit. It is further contended that, by the proposed amendment the nature of the suit will not be changed. On the other hand, it is contended that, it is typographical mistake. Thus, the plaintiffs have prayed to allow the proposed amendment. The instant application is supported by an affidavit.

3. The defendant nos.21 to 23 have filed their say and contended that the plaintiffs have filed present application with mala-fide intention and ill-motive. It is also contended that the instant application is false and vaxcious.

4. I have heard the learned advocate for the respective

parties at length.

5. Considering the application following points arise for my determination and I have recorded my findings thereon with reasons stated below.

<u>SR.NO.</u>	<u>POINTS</u>	<u>FINDINGS</u>
1	Whether the proposed amendment ... will change the nature of suit ?	<u>NO.</u>
2	Whether the proposed amendment is necessary for the proper ... adjudication of the matter ?	<u>YES.</u>
3	What order ?	... <u>APPLICATION IS ALLOWED.</u>

-: REASONS :-

AS TO POINT NOS. 1 TO 3 :-

6. It is seen that the plaintiff has filed the present suit for possession of the encroached portion of land. In the present suit, there are 30 defendants. Out of them, the defendant nos. 1 to 6, 8,9,11, to 14, 7,15,21, 25 to 28 appeared. However, the suit is proceeded ex-parte against the some of defendants. It is further say that, in view bailiff report it is reported that the name of defendant no.20 is not correct and no such person is residing in the village. According to the plaintiff, as per 7/12 extract, the correct name of the defendant no.20 is "Vimal Suresh Nare alias Nande" . It is contended that, the aforesaid mistake is typographical. Therefore,

by the proposed amendment the plaintiffs have prayed to rectify the name of the defendant no.20 as “Vimal Suresh Nare alias Nande” in the title clause of the suit.

7. Thus, it is seen that the amendment is of technical in nature and it will not change the nature of the suit. On the other hand, the proposed amendment is necessary in order to avoid the multiplicity of the proceedings. Therefore, I am of the considered view that the amendment sought is to be allowed. Hence, I answer point Nos.1 and 2 accordingly and in answer to point No.3 I proceed to pass the following order.

ORDER

- 1 Application Exhibit 29 is allowed.
- 2 The plaintiff to carry out the proposed amendment within the period of seven days from the date of this order.
- 3 There shall be no order as to costs.

Sd/-

(S.M.Jadhav)

Date. 29.06.2018.

2nd Jt. Civil Judge, Junior Division,
Peth-Vadgaon.

CERTIFICATE

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	Mrs. Rajashri Rajendra Sawant (L.G.)
Name of Court	Shri. S.M.Jadhav, 2 nd Jt. C.J.J.D. and J.M.F.C., Peth Vadgaon
Date of Dictation	29.06.2018.
Judgment signed by the P.O. on	29.06.2018.
Judgment/Order uploaded on	04.07.2018.