

MHKO110015232017



Regular Civil Suit No.159/2017
(CNR No.MHKO110015232017)

Order below Exh.65

1. The plaintiff has moved the present application for amendment of plaint under Order VI Rule 17 of The Code of Civil Procedure, 1908 for correcting the name of defendant No.3 (D) as 'Gayatri Sandip Mahajan' in stead of 'Surekha Sampatti Mahajan' in the plaint.

2. The Ld. Counsel for the plaintiff submitted that, the defendant No.3(D) is legal heir of deceased defendant No.3. The suit summons and notice was issued to the defendant No.3(D). However the said summons and notice was not accepted by the husband of defendant No.3(D) by stating that, the name of defendant No.3(D) is not 'Surekha Sampatti Mahajan' and he further submitted that, her name is 'Gayatri Sandip Mahajan'. Hence the plaintiff had filed this application for correcting the name of defendant No.3 (D) as 'Gayatri Sandip Mahajan' in stead of 'Surekha Sampatti Mahajan' in the plaint. Hence he prayed to give permission to correct the name of defendant No.3(D). The plaintiff further submitted that, the proposed amendment is of formal nature and will not change the basic nature of the suit. Hence she prayed to allow the proposed amendment.

3. Say of defendants was called. They have objected the application by stating that, the contents of the application are not true and correct. They further submitted that, the application is filed only to prolong the matter. Hence, they prayed to reject the application. Alternatively they prayed for heavy costs of Rs.5,000/-, if the application is allowed.

4. Heard Ld. Counsels for both sides. Perused the record. The following points arise for my determination and I have recorded my findings thereon for the reasons stated herein below :

<u>Sr. No.</u>	<u>Points</u>	<u>Findings</u>
1	Whether the proposed amendment is necessary to resolve the real controversy between the parties ?	<u>Yes.</u>
2	Whether the proposed amendment will change the basic nature of the suit ?	<u>No.</u>
3	What order ?	<u>Application is Allowed.</u>

REASONS

As to Point No. 1 to 3 -

5. The point No.1 to 3 are co-related to each other, hence I have taken up them together for discussion. Heard. Perused the record and documents. On perusal, it reveals that, the defendant No.3(D) is legal heir of deceased defendant No.3. The suit summons and notice was issued to the defendant No.3(D). However the said summons and notice was not accepted by the husband of defendant No.3(D) by stating that, the name of defendant No.3(D) is not 'Surekha Sampatti Mahajan' and he further submitted that, her name is 'Gayatri Sandip Mahajan'. Hence the plaintiff had filed this application for correcting the name of defendant No.3 (D) as 'Gayatri Sandip Mahajan' in stead of 'Surekha Sampatti Mahajan' in the plaint.

6. The proposed amendment will not change the basic nature of the suit and it will not cause any loss to the defendants. Therefore considering the nature of the suit and so as to resolve real controversy between the parties and to decide the matter on merits, the proposed amendment deserves to be allowed. Hence I proceed to pass following order.

ORDER

- 1) The application is hereby allowed subject to costs of Rs.200/-, it be paid to the defendants.
- 2) The plaintiff is hereby directed to correct the name of defendant No.3(D) as 'Gayatri Sandip Mahajan' in place of 'Surekha Sampatti Mahajan'.
- 3) The plaintiff is hereby directed to file copy of amended plaint accordingly.

Date : 11/02/2021

(J. S. Gaikwad)
Civil Judge Junior Division,
Peth-Vadgaon

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

Name of the Stenographer	Sou.K.S.Gaikwad
Name of the Court	J. S. Gaikwad Civil Judge Junior Division, Peth-Vadgaon
Date of Dictation	11/02/2021
Order signed by the P.O. on	12/02/2021
Order uploaded on	12/02/2021