

MHKO120001242022



Reg.Civil Suit No.37/2022

(CNR No.MHKO120001242022)

Order below Exh.32

01. The plaintiff has filed the present application under Order 6 Rule 17 of Code of Civil Procedure (hereinafter referred as "C.P.C.") for amendment of the plaint. Perused the application supported with affidavit and say of defendants. Heard both sides.

02. According to the plaintiff, during pendency of this suit, the defendants have completed the work of "अंगणवाडी". The plaintiff has obtained measurement from T.I.L.R., Bhudargad on 09/02/2024. The defendants have made encroachment to the extent of 0.327 HR in the suit property and made the construction upon it. Therefore, the plaintiff has sought to amend about this subsequent event happened during the pendency of the suit. The plaintiff has relied upon the relevant documents of measurement and map alongwith photographs below Exh.21.

03. On the contrary, the defendants have opposed the application on the ground that the proposed amendment would change the nature of the suit. Hence, the defendants prayed to reject the application.

04. I consider submissions of both sides. In this matter, issues have framed below Exh.24. The matter is pending for

evidence. In this matter the cross-examination of plaintiff is yet to be commenced. The record of the case shows that the Measurement Case No.37/6 shows about the encroachment of 0.327 HR in Gat No.978 at the hands of land holder of Gat No.980 and 981. The plaintiff is owner of Gat No.978. Therefore, the encroachment is found in the measurement map. The measurement was conducted on 08/04/2024, which is during the pendency of this suit. This is the subsequent event. No doubt the fact and extent of encroachment will be proved at the instance of plaintiff by adducing proper evidence on the record. Therefore, the proposed amendment is necessary to decide the controversy between the parties. Hence, I pass following order.

ORDER

- 1) The application is hereby allowed subject to costs of Rs.500/- (Rs.Five Hundreds only).
- 2) The plaintiff shall carry out necessary amendment within 14 days from today and submit amended copy of the plaint.
- 3) The defendants are at liberty to make consequential amendment in the written statement.

Date : 18/10/2024

(V. V. Kulkarni)
Civil Judge Junior Division,
Gargoti