

**MHKO120001422010****Reg.Civil Suit No.43/2010**

(CNR No.MHKO120001422010)

**Order below Exh.93**

01. The defendant Nos.1 and 2 have filed the present application under Order 6 Rule 17 of Code of Civil Procedure (hereinafter referred as "C.P.C.") for amendment of the written statement. Perused the application and say. Heard both sides. The plaintiffs submitted to pass appropriate order.

02. According to defendant Nos.1 and 2, who are Sarpanch and Gramsevak at the time of filing of the suit. The then Sarpancha and Gramsevak have filed the written statement below Exh.19. According to them, Grampanchayat is separate local body. The written statement ought to be filed separately at the prevalent time. But, the then Sarpanch and Gramsevak have filed the written statement in collusion with defendant Nos.3 to 5. Therefore, Ld. Adv. Shri.M.PPatil submitted that this application be kindly allowed and permission be given to amendment of written statement.

03. I consider submissions of both sides. The record of the case shows that the evidence of both parties have commenced. The evidence of defendant No.1 - Sanjay Patil is completed on

07/06/2017. According to defendant Nos.1 and 2 the resolution was passed in Grampanchayat on 22/06/2016, by which the then Sarpancha and Gramsevak have been precluded from filing evidence affidavit. Despite of this fact, Sanjay Patil has filed evidence affidavit on 18/07/2016.

04. Now, the question before me is about consideration of proposed amendment. On minute perusal of present application, it is sunshine clear that defendant Nos.1 and 2 have prayed in the prayer clause to grant permission to file the additional written statement. There is no single word mentioned in this application about proposed amendment in the written statement. The reasons are best known to defendant Nos.1 and 2 about it.

05. In fact, the defendants are seeking permission to file additional written statement. However, already written statement of the then Sarpanch and Gramsevak is filed on record, by which the evidence of plaintiff is completed and evidence of Sanjay Patil is also completed. Right now, defendant Nos.1 and 2 are precluded from stating the additional written statement in view of Order 6 Rule 7 of Code of Civil Procedure, by which once they have taken the defence in the written statement, then they cannot change their plea or defence in written statement during the trial. The rule of departure mentioned in Order 6 Rule 7 of C.P.C. completely bars to defendant Nos.1 and 2 from taking the inconsistent plea in respect of their previous written statement.

06. Apart from this fact, whatever contentions have mentioned by the then defendant Nos.1 and 2 will be considered on its own merits at the final end of the trial. Therefore, the present defendant Nos.1 and 2, who have entered into the capacity of Sarpanch and Gramsevak are not permitted to take the inconsistent plea in respect of the then defendants at Exh.18. It is also important to note that the question of filing additional written statement would arise only when the plaint is amended. Therefore, this application doesn't touch the four corners of law. It is devoid of merits. In result, I pass following order.

**ORDER**

- 1) The application is rejected.
- 2) Both parties and their Ld. Adv. to take note of this order.

Date : 19/10/2024

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