

:: ORDER BELOW EXH.60 ::

Perused the application and say. Heard both sides. Through this application, the plaintiff is seeking amendment in the plaint. By way of proposed amendment, the plaintiff wants to give clear description of the subject matter of the suit. According to the plaintiff, the subject matter of the suit is land Gat No.152. However, defendant no.6 unauthorizedly got divided the land Gat No.152 in two different parts i.e. land Gat No.152/A and 152/B. In order to have a clear identification of the property, it is necessary to mention the subsequent division of land Gat No.152 into two separate gat numbers. Moreover, he is seeking amendment in pursuance of order passed by this Court below Exh.1 dated 11/05/2015. According to the plaintiff, the proposed amendment will not change the nature of the suit. It will not cause prejudices to the defendant.

2) In reference to the changed description of the suit property, the plaintiff also wants to make necessary changes in the prayer clause of the plaint.

3) The defendant nos.1 to 5 failed to submit say to the application. Defendant no.6 contested the application by filing their say. According to the defendant, the proposed amendment will change the nature of the suit. The division of land Gat No.152 into two separate gat numbers

was within the knowledge of the plaintiff since before the institution of the suit. The amendment is based on the contentions made in the written statement. Hence, the application may be rejected.

4) Herein, the plaintiff is seeking partition of the land Gat No. 152, which is alleged to have been bequeathed to him and the defendant nos.1 to 5 by one Shankar Bala Shetti. Now, at this stage, plaintiff wants to give the detail description of the suit property. According to the plaintiff, land Gat No.152 is subsequently divided into two parts i.e. land Gat No.152/A & 152/B. In the circumstances, in my view, the proposed amendment is only to the effect of giving the clear description of the suit property. Moreover, this Court also as per order below Exh.1 dated 15/11/2015 directed to give the clear description of the suit property. In the circumstances, in my view, the proposed amendment is necessary for the adjudication of real controversy between the parties. It will not change the nature of the suit. So also, it will not cause prejudices to the defendant. According to the plaintiff, he has described the suit property as land Gat No.152 because the subsequent division of land Gat No.152 was illegal. However, it was expected from the plaintiff to give the description of the suit property as on the date of filing of the suit. However, the plaintiff has not described the suit property as on date of filing of the plaint. Hence, the present application was required to be filed.

Due to that, delay is going to be caused in the present suit. For the same, cost of Rs.200/- will have to be imposed on plaintiff. In all these circumstances, I pass following order,

ORDER

- 1] The application is allowed.
- 2] Permission granted to the plaintiff to amend the plaint as prayed for on the payment of cost of Rs.200/- (In Words Rupees Two Hundred Only).
- 3] The plaintiff to carry out the amendment in the plaint till next date.

Sd/-

(S. S. Parave)

Civil Judge Junior Division,
Gargoti.

Place : Gargoti.

Date : 15/09/2017.

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

Name of the Stenographer	:	Mr. S. D. Sarang
Name of Court	:	Court of Civil Judge Junior Division, Gargoti, Tah. - Bhudargad, District - Kolhapur
Date of Dictation	:	15/09/2017
Order signed by the P.O. on	:	15/09/2017
Order uploaded on	:	15/09/2017