

:: ORDER BELOW EXH. 47 ::

Perused the application and say filed thereon. By way of proposed amendment, plaintiff wants to incorporate four-boundaries of his 1/2 share out of the suit property precisely and in prayer clause the words "*Not to dispossesses without following due process of law from his 1/2 share*". The defendant nos. 1 and 2 have filed their say at Exh. 51 and prayed for rejection of application contending that the proposed amendment is after-thought and after framing of issues, amendment can't be allowed. The defendant nos.3 and 7 filed their say and prayed for rejection of application. Learned advocates for plaintiff and for defendant nos. 1 and 2 remained absent and not advanced their argument.

2) At this stage, it is not necessary to look into merits of the case while considering the application for amendment. The proposed amendment will help for determining of real controversy between the parties. It is well settled that the rules of procedure are intended to be a hand made to the administration of justice. A party can not be refused just relief because of some mistake, negligence, inadvertence on his part. If the proposed amendment is allowed, then it will not change the nature of suit. Therefore, in my view, it is necessary in the interest of justice to permit the plaintiff to amend the plaint because it will help to avoid multiplicity of proceeding and it will help to decide the real controversy between the parties.

3) By the proposed amendment, no new case is made out nor could it be said that the application is malafide. In the light of

above discussion and after taking into account the facts and circumstances of the case, the proposed amendment is necessary for determination of real controversy in between the parties on merits and it will not cause in justice, prejudice to the defendants. As far as, question of delay is concerned, it can be compensated by awarding cost to the defendants. In the result, following order is passed,

:: ORDER ::

- 1] The application is allowed subject to cost of Rs. 500/- (In Words Rupees Five Hundred Only). Cost be paid to the defendants.
- 2] The plaintiff is hereby directed to carry out the amendment as per Order VI, Rule 18 of Civil Procedure Code.
- 3] The plaintiff is directed to file on record the amended copy of plaint i.e. Exh. 1 immediately after carrying out the amendment.

Sd/-

Civil Judge Junior Division,
Gargoti

Date : 03/02/2015

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	:	03/02/2015
Order signed by the P.O. on	:	03/02/2015
Order uploaded on	:	03/02/2015