



ORDER BELOW EXH. 21 IN R.C.S.No. 16/2021

1. This application is filed by plaintiff to amend the suit under Order 1 Rule 10 and under Order 6 Rule 17 of Code of Civil Procedure.

2. According to plaintiff, this suit is filed for declaration and perpetual injunction. The present amendment application is filed to include the Chief Officer as defendant no. 2 and for thereby consequential amendments in the body of the plaint as well as in prayer clause. If the amendment is allowed no prejudice would be caused to the defendants whereas, if the application is rejected it would cause prejudice to the plaintiff. The proposed amendment sought by the plaintiff would help the Court to determine the real controversy between the parties. Therefore, prayed to allow the proposed amendment.

3. As against this, the defendant has filed say below the same application. The defendant objected on the ground that, the application is false and frivolous. The proposed amendment is hit by proviso Order 6 Rule 17 of Code of Civil Procedure as issues have been framed. The same would change the nature of suit. Further, both relief in one application is not maintainable. Hence, urged to reject the application.

4. Heard learned advocates for both the parties.

5. The following points arise for consideration, the court has recorded its findings and reasons as follows-

Sr. No.	Points	Finding
1.	Whether plaintiff is entitled forYes.

	proposed amendments as well as addition of party as prayed?	
2.	What order ?	Application is allowed.

:- REASONS :-

As to points no. 1 and 2:-

6. The main relief in this suit is filed for perpetual injunction and declaration only against defendant. Now, it is claim of the plaintiff that, she want to add the Chief Officer of Kagal Nagarparishad. The application goes to show that, the Kagal Nagarparishad issued notice on 20/12/2022 to plaintiff with collusion of defendant no. 1. According to plaintiff, certain right and liability are also upon Chief Officer of Kagal Nagarparishad. Thus, by proposed amendment they want to add the Chief Officer of Kagal Nagarparishad as defendant no. 2. The court has gone through the previous pleading of the plaintiff. The para no. 7 of the plaint indicates that, the plaintiff has applied to the Nagarparishad. However, they had not taken any cognizance. The said fact is reflected in the present application and now, the plaintiff wants to add the Chief Officer as defendant no. 2. The previous prayer Clause was also in regard to perpetual injunction. Now, by proposed amendment too the plaintiff wants same prayer against proposed defendant. Thus, this Court is of the opinion that such proposed amendment if allowed would not change the actual nature of the suit. The objection raised by the defendant thus carry no significance. Admittedly, in the present suit only the issues have been framed. Be that as it may, procedural laws are handmaids of justice and liberal approach is required to be adopted.

7. Further, the record indicates that, one another suit vide R.C.S.No. 40/2023 is pending between parties before this Court, in which Chief Officer is also party. Thus, if proposed amendment is permitted, it would not change the nature of suit, and would not cause any prejudice to the defendant. In the result, following order is passed.

<u>ORDER</u>	
1.	The application is allowed.
2.	No order as to costs.
3.	The plaintiff is directed to carry out the proposed amendment and to add party as prayed within the statutory period and shall submit the copy of amendment plaint.

Kagal
Date:- 23/06/2023

(B.D.Gore)
Civil Judge Junior Division,
Kagal.