

MHKO130001172013



ORDER BELOW EXH.51 IN R.C.S. NO. 04/2013.

1. This is an application filed by the plaintiffs under Order 6 Rule 17 of the Civil Procedure Code for getting permission to amend the plaint, temporary injunction application and evidence affidavit of their power of attorney.

2. It is submitted by plaintiffs that, inadvertently the date of sale deed was mentioned 30/11/1971 instead of 30/12/1971 in plaint, temporary injunction application (Exh.5) and evidence affidavit of his power of attorney (Exh.39). Hence, they prayed for getting permission to correct the same.

3. Defendants filed their say and resisted the contents of this application. They submitted that, the alleged mistake is intentional. Hence, they prayed for rejection of this application.

4. Perused the application and say filed thereon. Heard learned Advocates for both the sides. Studied Order 6 Rule 17 of Code of Civil Procedure. By way of present application, plaintiffs want to correct the date of sale deed dated 30/12/1971. This mistake is seen typographically in nature. It is not going to cause prejudice to other side. Hence, the amendment in the plaint as well as temporary injunction application is liable to be allowed.

5. So far as the amendment in the affidavit of power of attorney holder Exh. 39 is concerned, it is not permissible in the eye of law to correct the evidence affidavit. It is needless to mention that, the witness is at liberty to file additional affidavit so far as corrected portion is concern. Hence, the prayer of amendment in the evidence affidavit is not tenable. Thus, this application is liable to be partly allowed. Hence, following order is passed.

ORDER

1. The application is partly allowed.
2. The plaintiff is permit to carry out the proposed amendment in the plaint and temporary injunction application (Exh.5).
3. The plaintiff shall carry out the proposed amendment within next 14 days.

Date:- 13/02/2020.

Place:- Kagal

(V. H. Khedkar)

Civil Judge Jr. Dn., Kagal