

CNR No.- MHKO13-000659-2016

Order Below Exh.29 in R.C.S. No.29/2017.

1. The plaintiffs have filed this application for the amendment of the plaint and Exh.5 as per Order 6 Rule 17 of the Civil Procedure Code.

2. **The plaintiffs claim in the present application is as under :-**

The main suit is filed for permanent injunction against the defendants. The plaintiffs by way of proposed amendment wants to correct typographical and arithmetical mistake in measurements of area mentioned in the Para No.1B of plaint and Exh.5. The plaintiffs claims that the area ought to have been 0-25 Are instead of 0-25.38 Are. The proposed amendment is formal in nature. The amendment sought will not change the nature of the suit and it will not adversely affect the defendants. If the amendment application is rejected, the plaintiffs would suffer an irreparable loss. Therefore, prayed to allow the amendment.

3. As against this, the defendants filed their reply below the present application and objected the same. They objected on the ground that the plaintiffs have knowledge about it but, in spite of same, intentionally they have not pleaded in it. The plaintiffs cannot seek amendment in Exh.5 application. Therefore, application deserves to be rejected with costs.

4. Heard learned Advocates for both the sides.

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

No.	Points	Finding
1.	Whether plaintiffs are entitled for proposed amendment as prayed ?	Yes.
2.	What order ?	Application is allowed.

REASONS

As to Points No.1 and 2 :-

6. The main suit is for obtaining permanent injunction against the defendants. By way of proposed amendment the plaintiffs wants to correct typographical and arithmetical mistake made in the area mentioned in the plaint and Exh.5 of the suit property. The perusal of the application goes to show that at the description of suit property, inadvertently due to typographical mistake has been wrongly mentioned as 0-25.38 Are rather than 0.25 Are. The sale deed produced by the plaintiff itself goes to show that there is an reference of 0-25 Are. Therefore, through this amendment plaintiffs wants to rectify the typographical error. There is no commencement of trial. The amendment sought is formal in nature. Moreover, the proposed amendment would in no case change the nature of the suit. The same would help the Court in adjudicating the dispute with regard to the actual suit property involved in the dispute arising amongst the parties. Certainly, some inconvenience have been caused to the defendants by filing of such application. Thus, the Court is of view that the plaintiffs are liable for certain cost. Accordingly, the Court answer point No.1 in the affirmative and in answer to point No.2, pass the following order:-

ORDER

1. The application is allowed subject to cost of Rs.300/- (Rs. Three Hundred Only) to be paid to the other side.
2. The plaintiffs are directed to carry out the amendment as prayed within the statutory period.

Sd/-

Date- 17/03/2018.
Place-Kagal

(A.A.K. Shaikh)
Jt. Civil Judge Jr.Dn., Kagal

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

Name of the Stenographer	Sandip Maruti Patil (L.G.)
Name of Court	Jt. Civil Court & J.M.F.C. Kagal
Date of Dictation	17/03/2018.
Judgment signed by the P.O. on	17/03/2018.
Judgment uploaded on	17/03/2018.