

CNR No.- MHKO130011362012

Order Below Exh.54 in R.C.S. No.332/2012.

1. Perused the application, say and record. Heard learned Advocate for the plaintiff. No argument put forth on behalf of the defendant. The defendant has filed this application for the amendment of the written statement as per Order 6 Rule 17 of the Civil Procedure Code. Amendment sought is in respect of pleading as to previous partition.

2. By way of say application is opposed by the plaintiff vide say at Exh.55. It is the contention of the plaintiff that the application is not maintainable as if amendment is permitted it will change the nature of the suit. Lastly, prayed for rejection of the application.

3. It is settled position of law that the defendant may take number of defence. Suit is for injunction. It is the defence of the defendant that suit properties are already partitioned. Proposed amendment is sought in respect of previous partition. Admittedly, defendant has filed captioned application for amendment of written statement. Hence, question of change of nature of suit would not arise. On going through the application for amendment in the light of averment in written statement it is seen that the amendment sought is bonafide and will not change the nature of the defence.

4. This Court is satisfied that proposed amendment is necessary for the purpose of determining the real question in controversy between the parties. Suit is old. Captioned application is

filed belatedly, hence it would be just and equitable to allow the application by imposing cost. Hence, following order.

ORDER

1. The application is allowed subject to cost of Rs.500/- (Rs. Five Hundred Only) to be paid to the plaintiff.
2. Defendant is directed to carry out the amendment as prayed within the statutory period.

Sd/-

Date-26/10/2018.

Place-Kagal

(V. C. Joshi)

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	26/10/2018.
Judgment signed by the P.O. on	26/10/2018.
Judgment uploaded on	29/10/2018.