

Order below Exh.85 in Regular Civil Suit No.65/2006.

This is an application moved by the defendants under Order 6 Rule 17 of the Code of Civil Procedure for amendment of written statement.

2) Heard learned advocate Shri. A.S. Kamble for the plaintiffs and learned advocate Shri. V.G. Desai for the defendant No.1 to 4.

3) Perused the application and say.

4) Defendants contended that plaintiffs filed suit for the relief of partition and separate possession. The defendant No.1 to 4 resisted the suit by filing their written statement vide Exh.51. Defendant No.1 to 4 in para 6 of their written statement specifically contended that the properties of the family of plaintiffs and defendants were partitioned and also shown the shares of the father of the defendant No.1 to 3 and 5 to 7 named Bhagwant and his brothers Ramchandra – defendant No.8, Gopal – defendant No.9, Govind – defendant No.10 and the father of defendant No.1 and defendant No.11 – Yeshwant. Accordingly, defendants have also shown the proportionate shares of them in para of their written statement. However, certain Survey Gat numbers were wrongly mentioned in the written statement. Hence, by way of this application defendants wants to correct those survey gat numbers. Hence, the application.

5) The learned advocate for the plaintiffs has strongly objected the application. He submitted that application is filed with malafide intention to change the nature of the suit properties. Hence, if application is allowed, then prejudice would be caused to the plaintiff. Hence, application is liable to be rejected.

6) The perusal of para 6 of written statement (Exh.51) revealed that defendants have specifically given the survey numbers allotted to the shares of Bhagwant, Ramchandra, Gopal, Govind and Yeshwant. By way of this application, defendants wants to correct the survey number 286/9A as survey number 286/9B. By way of this application, defendants do not want to incorporate any new plea in their written statement. Hence, it appears that there is previous pleading on the record in para 6 of the written statement of defendants. By way of proposed amendment, defendants wants to elaborate and given specific survey numbers which were allotted to the shares of the parties in so-called alleged partition. Hence, by way of this application, defendants do not want to take new defence nor withdraw admission given in favour of plaintiffs. Hence, I hold that, if application is allowed, the nature of the

suit will not be changed. On the contrary, it is helpful to determine the point of real controversy between the parties. Hence, I hold that application deserves to be allowed.

6) As defendants moved this application for amendment at belated stage. Hence, application deserves to be allowed by imposing costs. Therefore, I proceed to pass the following order.

Order

1) Application is allowed subject to payment of costs of Rs.500/- (Rupees five hundred fifty only) to the plaintiffs on today itself.

2) After compliance of clause (1) defendants are permitted to carry out the amendment as prayed in their written statement.

3) Failure to comply the order on or before next date, application shall be deemed to be rejected.

Dated:- 30/06/2017.

Sd/-
(M. D. Thombare)
Civil Judge, Jr. Dn., Chandgad.

CERTIFICATE

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

Name of the Stenographer	Shri. V. L. Tatkod, L. G. Stenographer.
Name of Court	Shri. M.D. Thombare, Civil Judge, Junior Division and Judicial Magistrate, First Class, Chandgad.
Date of Dictation	30/06/2017
Judgment/Order signed by the P. O. on	30/06/2017
Judgment/Order uploaded on	30/06/2017