

COMMON ORDER BELOW EXH- 66 & 68.

Plaintiff has filed these applications for amendment of plaint U/Order 6, Rule 17 of C.P. Code.

2. It is contention of Plaintiff that, he has filed application at Exh. 66 for necessary amendment to the extent of giving effect to deleted defendant no. 1 to 4 as prayed in the application. Further, he has filed application at Exh. 68 for incorporate para no. 5-A in respect of subsequent events after filing present suit. Thus, prayed to allow both applications as it not change the nature of suit and just for the decision of case.

3. Defendant strongly opposed both applications by filing applications at Exh. 67 and 69. He contended that, plaintiffs filed application at Exh. 66 at belated stage. This amendment could change the nature of proceeding. Further, he opposed second application vide say at Exh. 69 and submitted that, previously this suit filed before Hon'ble Civil Judge Senior Division, Gadhinglaj. However, vide application at Exh. 44 defendant no. 1 to 4 as a state representatives were deleted from the proceeding. Thus, this suit have been transferred before this court. This plaintiff again filed application at Exh. 51 for adding previously deleted defendant no. 1 to 4, but the same is rejected. Plaintiff intentionally to harass defendant filed multiple applications.

4. He further contended that, the plaintiffs claim in respect of proposed amendment vide para 5-A is completely ill-legal. Plaintiff has not filed single document to support his contention. These defendant

has already filed revision before Hon'ble Revenue Minister Mumbai. Thus, prayed to reject both applications with cost.

5. Perused record. Heard both parties. It is not disputed that, defendant no. 1 to 4 in present suit were deleted and this suit transferred before this court for trial. The proposed amendment vide application at Exh. 66 is to be extent of deleted references in respect of deleted defendant no. 1 to 4. Further, the plaintiff prayed proposed amendment vide application at Exh. 68 is relevant to the subsequent issues.

6. Defendant admitted both facts. It is not case of defendant that, the subsequent events not occurred as prayed in application. Defendant strongly contest this application on ground that, they filed at belated stage. As per say of defendant, he has filed second revision application before Hon'ble Revenue Minister, Mumbai.

7. For deciding application for amendment of plaint, court ought to decide the proposed amendment is just and proper for the decision of suit and filed within time. Further, court has to observe the due diligence of the applicant while praying.

8. In present both applications, plaintiff has not pleaded about his diligence to file applications. Though, proposed amendment in para 5-A is subsequent in nature, but plaintiff not contended the date of proceedings. Therefore, it shows that, plaintiff filed these applications at belated stage. The main crux of these applications need to be consider. The proposed amendment not change the nature of proceeding and just for the final decision of case. If these applications allowed, no prejudice would be caused to the defendant. Per contra if

it rejected it will amount to decline right of plaintiff to put forth his case. The above applications fulfill all necessary requirements of amendment. Hence, in result of above discussion I pass following order,

ORDER

1. Applications are allowed subject to cost of Rs. 500/- paid to legal-aid Ajara.
2. Plaintiff is permitted to carried out necessary amendment as prayed in both applications within 14 days and filed copy of amended plaint on record.
3. Defendant having liberty to file his amended written statement after compliance of order by plaintiff.
4. Plaintiff to take note and comply order accordingly.

Place- Ajara.
Date- 03.08.2024.

(R. P. Thore)
J.O.Code No.MH02897
Civil Judge, Junior Division,
Ajara.