

ORDER BELOW EXH- 71.

Defendants have filed this applications for amendment of written statement U/Order 6, Rule 17 of C.P. Code.

2. It is contention of defendants that, after filing this suit for partition some complaints were refer before authorities of revenue departments and they were passed some orders in respect of suit properties. All above facts need to be in corporate in W.S. of defendants for just decision of case. Thus, prayed to allow the proposed amendment in respect of para no. 7-A as prayed in the application. Further, they contended that, proposed amendment could not change the nature of suit and occurred subsequent to filing their W.S. Thus, prayed to allow the application.

3. Plaintiff strongly opposed this application by filing his say at Exh. 72. He contended that, the proposed amendment in respect of para 7-A is completely false and baseless. Defendants have not filed single document on record. Further, plaintiff has filed revision application before Hon'ble Revenue Minister, Mumbai. Present application filed at belated stage without sufficient cause. Thus, prayed to reject the application.

4. Perused record. Heard both parties. It is not disputed that, proposed amendment is relevant to the subsequent issues. Plaintiff not denied above fact. It is not case of plaintiff that, the subsequent events not occurred as prayed in application. As per say of plaintiff, he has filed second revision application before Hon'ble Revenue Minister, Mumbai. Plaintiff strongly contest this

application on ground that, it filed at belated stage.

5. 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.

6. In present application, defendant has not pleaded about his due diligence to file this application. Though, proposed amendment in para 7-A is subsequent in nature, but defendant not contended the date of proceedings. Therefore, it shows that, defendants filed this application at belated stage. This suit is more than ten years old. Therefore, defendants ought to be diligent to avail their rights.

7. Considering rival submissions of both parties, the main crux of this application need to be consider. The proposed amendment not change the nature of proceeding and just for the final decision of case. If this application allowed, no prejudice would be caused to the plaintiff. Per contra if it rejected it will amount to decline right of defendants to put forth their case.

8. Further, it is settled law that, court ought to be liberal while allowing application for amendment of W.S. rather than plaint. The above application fulfill all necessary requirements of amendment. Hence, in result of above discussion I pass following order,

ORDER

1. Application is allowed subject to cost of Rs. 500/- paid to legal-aid Ajara.

2. Defendants are permitted to carry out necessary amendment as prayed in the application within 14 days and filed copy of amended W.S. on record.
3. 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.