

MHKO150002802016

**Regular Civil Suit No.63/2016.**

Sou. Nirmala Shivaji Patil

*Versus*

Santosh Janba Desai

**Order Below Exhibit 24.**

1. This is an application filed by the plaintiff for amendment of the plaint. Perused the application and the say. Heard both sides.

2. It is the contention of the plaintiff that, the suit is filed for partition, declaration, mesne profit and permanent injunction against defendants. At the time of filing of the suit, she was unaware of the deceased sister of defendant No.1, Late Sunanda @ Swati and her heirs. Hence, she did not mentioned their names in the suit. She learnt about the same when defendant No.1 filed his written statement-cum-say in the suit. Thus she wants to add the heirs of deceased Sunanda @ Swati as a party to the suit and amend subsequent pleadings in the plaint. It will not change the nature of suit and would not cause any prejudice to the defendants. It will help to avoid multiplicity of proceedings. The plaintiff will suffer irreparable loss if the application is rejected. Hence, he prayed that the application be allowed.

3. On the contrary, defendants filed their say and strongly opposed the application by denying its contents. They submitted that the contentions in the application are false and frivolous. The plaintiff was well aware of the names and addresses of family members of defendants since long

back. Plaintiff was required to file application under Order I rule 10 of CPC for adding parties and not for amendment under Order VI rule 17 CPC. The delay caused is not sufficiently described by the plaintiff. Hence, prayed that the application be rejected.

4. Perusal of pleadings and the proposed amendment reveals that, the proposed amendment is purely technical one and essential to bring all the parties to the suit for just decision of the suit. The amendment sought will not change the nature of suit. The proposed amendment is essential to determine the real question in controversy between the parties. No prejudice would be caused to the defendants as they would be offered a chance to defend themselves. The amendment will also help to avoid multiplicity of proceedings. Thus, the Court finds it proper to allow the application. Hence, the permission as sought can be granted. In result, the following order is passed:

**ORDER**

1. Application is allowed.
2. The applicant shall carry out the proposed amendment on or before next date.
3. Cost on applicant.

Date : 14/01/2020.

(D. T. Patil)

Place : Ajara.

Civil Judge Jr. Division, Ajara.