

MHKO160002132016 	Reg. Civil Suit No.64/2016 (Maruti Vs. Balaso etc.)
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ORDER BELOW EXH.26

(Date : 05.10.2019)

This is an application filed by plaintiff for amendment under **Order VI Rule 17** of the **Code Of Civil Procedure** in the claim cause of plaint. Application is supported by affidavit.

2. Plaintiff filed the present suit for partition, separate possession. It is contention of plaintiff that, in the suit of partition there is necessary to mention all ancestral properties, but inadvertently some ancestral properties are not added in the suit. Those lands are must to be add in the suit. Therefore, he wants to add property Gat No.513 admeasuring 0.56 R., Gat No.532 admeasuring 1.05 R., Gat No.544 admeasuring 2.05 R., Gat No.1023 admeasuring 2.03.1 R. and Gat No.992 admeasuring 0.80 R. situated at village Yelur, Tal.-Shahuwadi, Dist.-Kolhapur in para No.1 description of suit property after Sr. No.1 to 13. This is a formal amendment. If amendment granted then nature of suit will not be changed and the suit is for partition and separate possession hence there is necessity to add said properties. No loss will be caused to defendant if amendment is allowed and it is helpful to decide the suit on merit. Hence, he prayed to allow the application.

3. Defendants failed to file their say. Hence, application proceeded without say as per order dt.05/10/2019.

4. After hearing of plaintiff it reveals that, plaintiff filed present suit for partition, separate possession. It is contention of plaintiff that, suit properties are ancestral properties of plaintiff and defendants, therefore, all properties are necessary to brought on record for proper adjudication of the case. Therefore, plaintiff wants to necessary amendment.

5. As per **Order VI Rules 17 of Code of Civil Procedure**, "*a party may be allowed to amend or alter his pleading at any stage of the proceeding to determine the real question in controversy between the parties*".

6. The suit is for partition and separate possession. By this application plaintiff wants to add property Gat No.513 admeasuring 0.56 R., Gat No.532 admeasuring 1.05 R., Gat No.544 admeasuring 2.05 R., Gat No.1023 admeasuring 2.03.1 R. and Gat No.992 admeasuring 0.80 R. situated at village Yelur, Tal.-Shahuwadi, Dist.-Kolhapur in para No.1 description of suit property after Sr. No.1 to 13.

7. It is admitted that suit is at initial stage. Application is permissible at this stage. Thus, proposed amendment is necessary to be brought on record for the purpose of determine the real question of controversy between the parties. At the outset, proposed

amendment does not change the nature of suit and cause of action. No hardship would be cause to defendants, if amendment is allowed. In fact, refusal of this application would cause irreparable loss to plaintiff. Proposed amendment if allowed, it would avoid the multiplicity of the proceeding. Hence, I proceed to pass following order-

Order

1. Application is allowed.
2. Plaintiff is permitted to carry out proposed amendment in para No.1 of the plaint as property Gat No.513 admeasuring 0.56 R., Gat No.532 admeasuring 1.05 R., Gat No.544 admeasuring 2.05 R., Gat No.1023 admeasuring 2.03.1 R. and Gat No.992 admeasuring 0.80 R. situated at village Yelur, Tal.-Shahuwadi, Dist.-Kolhapur within 14 days from today and to file amended copy of plaint.
3. Cost in cause.

Date:-05.10.2019.

(Smt.R.A.A.Khatib)
Civil Judge Jr. Dn.
Malkapur-Shahuwadi.

CERTIFICATE

I affirm that the contents of this [P.D.F.](#) File judgment are same, word to word, as per the original judgment.

Name of the Stenographer	Shri.S.M.Sutar
Name of Court	Smt.R.A.A.Khatib, C.J.J.D & J.M.F.C. Malkapur-Shahuwadi.
Date of Dictation	05/10/2019
Judgment signed by the P.O. on	05/10/2019
Judgment uploaded on	05/10/2019