



R.C.S.NO.207/2016
Sidhappa Salgare V/s Devappa
Aawati @ Chougale and another
CNR NO.MHKO180006262016

ORDER BELOW EXH.13

(Passed on 01st of October 2022)

1. This application is filed under O.6 Rule 17 of C.P.C. for amendment in plaint. As per the contention of plaintiff present suit is filed for declaration, recovery of possession and perpetual injunction. But due to typographical mistake the register number 3799 is wrongly typed in para No. 4 of the plaint. The correct register number is 3733. Therefore necessary amendment is required to be carried out in the plaint. The wrong number is typed due to oversight. If the application is allowed no loss would be caused to the defendants. On the other hand if the application is rejected irreparable loss would be caused to the plaintiff. Hence requested to grant this application.

2. Defendants have filed their say and strongly opposed this application. As per their contention plaintiff has filed this application after thought. The plaintiff has correctly mentioned said number in the prayer clause. But he has wrongly mentioned in the plaint. He has not given any explanation as to why said mistake not came to his knowledge since 2016 to 2022. This application is filed only with intention to delay trial. Hence they have requested to reject this application.

3. This application is filed under O.6 R.17 of C.P.C. which reads as under :-

Amendment of pleading- the court may at any stage of the proceeding allow either party to alter or amend his pleading in such a manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining real question in controversy between the party.

Provided that no application for amendment shall be allowed after the trial has commenced, unless the court comes to the conclusion that in spite of due diligence the party could not have raise the matter before the commencement of the trial.

4. On perusal of record it shows that, present suit is filed for declaration, recovery of possession and perpetual injunction. In para No.4 of the plaint the plaintiff has mentioned the register number of the sale deed is 3799. But in prayed clause he has mentioned the number as 3733. As per the contention of the plaintiff due to typographical mistake register No. 3799 is wrongly mentioned in the para No.4 of the plaint. The correct register No. is 3733.

5. It shows that issues are framed at Exh.10 on 26/12/2017 and the trial is commenced. No doubt that the plaintiff has not taken necessary steps in that regards prior to the commencement of trial. But if the proposed amendment is allowed nature of the suit will not be changed. Moreover to decide real controversy between the parties the proposed amendment is required to be carried out. Therefore

considering all this things I think it would be just and proper to grant this application. Hence I proceed to pass following order :-

ORDER

1. Application is allowed.
2. The plaintiff is allowed to carried out necessary amendment in the plaint within 14 days from the date of this order.
3. The plaintiff shall filed necessary copies of the amended plaint after carried out the amendment below Exh.1.

Date: 01/10/2022

(S. S. Ingale)
Civil Judge Jr.Division,
Kurundwad