

	<p>Order below Exh. 55 in Reg. Civil S. No. 83/2018 (Passed on this 07th day of September of 2022) <u>Sidhaji Mekte Vrs. Pundlikrao Mekte & Anr.</u> CNR NO.MHLA060002582018</p>
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01. The present application is filed by the defendants for the amendment in the written Statement under Order VI Rule 17 of the Civil Procedure Code (for short 'the C.P.C.'). It is contended that, the plaintiff has filed Suit for perpetual injunction with declaration of ownership against them. They have filed their written statement at (**Exh.23**). According to them, in the para No.12 (III), page Nos. 04 and 05 of the written statement due to the typological mistake mentioned 'East-West' wrongly instead of 'West-South'. Now they wants to amend their written statement.

02. According to defendants, proposed amendment would not change the nature of the defence and it would not cause any prejudice to the plaintiff. However, it would cause the prejudice to the defendants if the written statement is not amended. It is further contended that, to bring the true facts on record and in order to avoid the multiplication of the judicial proceeding the proposed amendment is necessary.

03. I have called the say of the plaintiff. The learned counsel of the plaintiff has given say on this application and opposed the proposed amendment. On the ground that, proposed amendment would cause prejudice to the plaintiff. There is no clerical and bonafide mistake. The proposed amendment is very belated stage. Matter is more than four years old and defendants are intentionally prolonged the matter by moving same nature of

application. They have further submitted that, it would change nature of defence. They have prayed for rejecting the application for amendment.

04. I heard ld. Advocate Shri. D.L. Ghogare for defendant Nos. 01 and 02 and ld. Advocate Shri. N.N. Demgunde for the plaintiff. Upon consideration the application, the say and hearing of both sides, the following points arise for my determination to which I have recorded my findings for the reasons to be followed:

Sr.No.	<u>Points</u>	<u>Findings.</u>
1.	Whether defendants are entitled to get amend the written statement as prayed for ?	<u>Yes.</u>
2.	What order ?	Application is allowed.

REASONS

Point No.01:-

05. In support of the application, the defendants have filed affidavit of defendant No.02 and supported their contention in respect of amendment in the written statement. On the contrary, the learned counsel of the plaintiff has objected that, the proposed amendment is vague and there is no sufficient cause for amendment.

06. It appears that, due to proposed amendment no prejudice would be caused to the plaintiff. It appears that, to meet the ends of justice and to avoid multiplicity of the litigation, amendment claimed by the defendants in the written statement is

must. If the application is not allowed, it would be caused serious to the defendants. Contrary, if the application is allowed it would not caused prejudice to the plaintiff. No doubt, defendants have filed this application at very belated stage and filed the same nature of application. Therefore, the plaintiff has sufferer; but it would be compensated in view of costs. Therefore, I answer to the **Point No. 1 in the affirmative.**

Point No.02:-

07. In the backdrop of above discussion and my affirmative finding on point No.01. It is clear that, the defendants are entitled to amend in the written statement as sought. In the result, as answer to the **Point No.02, I pass the following order:-**

:- ORDER :-

- 1.** The application is allowed on subject to the costs of **Rs. 500/-(Five Hundred only).**
- 2.** Defendants to carry out the amendment in the written statement within 14 days from today and supply amended copies of the written statement within one week thereafter.
- 3.** Failure of defendants to carry out amend and to supply the copies in stipulated time, would result into automatic vacation of the order without further reference to the court.

(Dictated and pronounced in open Court)

Place :- Ahmedpur,

Date :- 07.09.2022.

(Shyam S. Tondchire)

IIIrd Joint Civil Judge (Jr.Dn.)

Ahmedpur.