

**Order below Exh.64 in Reg. Civil S. No. 83/2018**

(Passed on this 20th day of March of 2023)

Sidhaji Vrs. Pundlik & Ors.

CNR NO.MHLA060002582018

01. The present application is filed by the plaintiff for the amendment in the plaint under Order VI Rule 17 of Civil Procedure Code (for short 'the C.P.C.'). It is contended that the plaintiff has filed Suit for declaration and perpetual injunction against the defendants. According to plaintiff, in para No.02 Lane No.04 and 05 of the plaint mistakenly, mentioned boundaries towards the North and South. He submits that, the boundary towards the South- land of plaintiff mentioned in the plaint, instead of river. However, boundary towards the North- land of Waman Mekle mentioned in the plaint, instead of the land of Pundlik Mekle i.e. defendant No.1. So that, he wants to amend the plaint as proposed.

02. According to plaintiff is that, proposed amendment would not change the nature of the suit and it would not cause any prejudice to the defendants. However, it would cause the prejudice to the plaintiff if the plaint 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 defendants. The learned counsel of defendants have given say on this application and opposed the proposed amendment. On the ground that, proposed amendment would cause prejudice to the defendants. The plaintiff did not adduce specific reason why he wants to amend at this stage.

The proposed amendment is filed with intend to prolonged the matter. Matter is at final stage and he intentionally prolonged the matter by moving same nature of application. Further submitted that, they averred in their written statement at Exh.23. Even though plaintiff did not filed this type of application. They have filed evidence as regards to the wrong description of property mentioned in the plaint. However, plaintiff has filed application below Ex.62 under order 7 Rule 3 of C.P.C. Therefore, the present application is filed by plaintiff. However, it would change nature of suit, if the application is allowed. Hence, they have prayer for rejecting the application for amendment.

04. I heard the Ld. Shri. N.N. Demgunde Advocate for plaintiff and Ld. Shri. D.L. Ghogre for defendants. 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 the plaintiff is entitled to get amend the plaint as prayed for ?	<u>Yes.</u>
2.	What order ?	Application is allowed.

REASONS

Point No.01:-

05. In support of the application, the plaintiff has filed affidavit and supported his contention in respect of amendment in the plaint. On the contrary, the learned counsel of defendants have objected that, the proposed amendment is vague and there is no

sufficient cause for amendment.

06. As matter of record it appears that, suit is posted for the final argument. Meanwhile defendants have filed the application at Exh.62 for the rejection of plaint. Thereafter, defendants have advanced their argument on Exh.63. After that, plaintiff filed present application. Ld. advocate for defendants has rightly argued that, he averred the fact about the discretion of suit property in their written statement. Though, plaintiff did not take proper step. No doubt as mentioned defendants, plaintiff has knowledge about the wrongly mentioned boundaries in his plaint. Further, reveals that, he has intentionally filed present application at belated stage in order to prolong the matter.

07. In the backdrop of the above discussions, due to propose amendment no prejudice would be caused to the defendants. It further appears that, to meet the ends of justice and to avoid multiplicity of the litigation, amendment claimed by the plaintiff in the plaint is must. If the application is not allowed, it would be caused serious to the plaintiff. Contrary, if the application is allowed it would not caused prejudice to the defendants. No doubt the plaintiff has filed this application at belated stage with intention to prolong the matter. Therefore, defendants have sufferer inconvenience; but it would be compensated in view of costs. Therefore, I answer to the **Point No. 1 in the affirmative.**

Point No.02:-

08. In the backdrop of above discussions and my affirmative

finding on point No.01. It is clear that, the plaintiff is entitled to amend in the plaint as sought. However, as the matter at the conclusion, it would be better to given direction of both parties to proceed with the suit on top priority. In the result, as answer to the **Point No.2, I pass the following order:-**

-: ORDER :-

1. The application is allowed on subject to the costs of Rs. 2,000/-(Two Thousand only).
2. The plaintiff to carry out the amendment in the plaint as early as possible and supply amended copies of the plaint within three days.
3. Considering age & stage of the suit, parties are directed to proceed with the suit on top priority.

(Dictated and pronounced in open Court)

Place :- Ahmedpur,

Date :- 20.03.2023.

(**Shyam S. Tondchire**)
IIIrd Joint Civil Judge (Jr.Dn.)
Ahmedpur.