

	<p>Order below Exh. 91 in Reg. Civil S. No. 277/2014 (Passed on this 02nd day of May of 2024) <u>Ranjanabai & Anr. Vs. Baburao & Ors.</u> CNR NO.MHLA060008782014</p>
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01. The present application is filed by the plaintiffs 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 possession of encroached land. Defendants appeared and filed their written statement at Exh.18. They have denied the contents in the plaint raised against them.

02. According to plaintiff, he filed the application at Exh. 85 for the amendment in the plaint. Accordingly, the said application has been allowed. In the said application inadvertently and due to typological mistakenly in the plaint in para 3 instead of para no. 04. Now they want to amend said typological mistakes by way of this proposed amendment.

03. According to plaintiffs are 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 plaintiffs 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.

04. I have called the say of the defendants. The learned counsel of defendants have given say on application and opposed

the proposed amendment. On the ground that, proposed amendment would cause prejudice to defendants. The plaintiffs did not adduce specific reason why they want to amend at this belated stage. The proposed amendment is filed with intend to prolonged the matter. Matter is posted for the evidence of the plaintiffs and they intentionally prolonged the matter by moving same nature of application. They have further submitted that, it would change nature of suit. They have prayer for rejecting the application for amendment.

05. I heard Ld. Shri. D.L. Ghogre, Advocate for plaintiffs and Ld. Shri.S. B. Mandade 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 plaintiffs are entitled to get amend the plaint as prayed for ?	<u>Yes.</u>
2.	What order ?	Application is allowed.

REASONS

Point No.01:-

06. In support of the application, the plaintiff No. 1 has filed affidavit and supported their 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.

07. As matter of record, issues has been framed at Exh.20. Thereafter, suit posted for evidence of plaintiffs. Meanwhile, plaintiffs have moved number of applications. Due to the interim applications matter prolonged. Ld. Advocate for the defendants rightly argued that, matter is from 2014 i.e. more than 8 years old. The plaintiffs had lot of opportunity to amend the plaint during the long span of trial. The plaintiffs have instead of adducing the evidence on record, moved the same nature of application and playing delay tactics. Due to that the defendants have suffered inconvenience.

08. As a matter of record, it is reflex that the matter is prolonged due to the plaintiffs and it would be caused inconvenience to the defendants. However, prior to this application, the plaintiffs moved this application for amendment. The plaintiffs have not given specific reason why they could not amend the proposed amendment in that earlier application.

09. As squeal above discussion, it appears that due to propose amendment no prejudice would be caused to the defendants. It appears that, to meet the ends of justice and to avoid multiplicity of the litigation, amendment claimed by the plaintiffs in the plaint is must. If the application is not allowed, it would be caused serious to the plaintiffs. Contrary, if the application is allowed it would not caused prejudice to defendants. No doubt the plaintiffs have filed this application at belated stage and filed the same nature of application. Therefore, defendants have suffered

inconvenience; but it would be compensated in view of costs.

Therefore, I answer to the **Point No. 1 in the affirmative.**

Point No.02:-

10. In the backdrop of above discussions and my affirmative finding on point No.01. It is clear that, the plaintiffs are entitled to amend in the plaint as sought. However, as the matter is more than 08 years old. 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 costs of Rs. 500/-(Five Hundred only).
- 2.** The plaintiffs to carry out the amendment in the plaint within 14 days from today and supply amended copies of the plaint within one week thereafter.
- 3.** Failure of the plaintiffs 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.
- 4.** 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 :- 02.05.2024.

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