

ORDER PASSED BELOW EXH.47 IN RCS NO.430/2020

Shamkant Vs. Unmesh & Ors.

(Passed on 03.01.2026)

CNR NO.MHLA060016642020

The plaintiff has preferred the present application under Order VI Rule 17 of the Code of Civil Procedure seeking amendment of the plaint.

02. The plaintiff has instituted the present suit for declaration and perpetual injunction in respect of the suit property.

03. It is the case of the plaintiff that there exists a common boundary embankment (Bandh) between the suit property of the plaintiff and the adjoining property of the defendants, which has been allegedly dismantled by the defendants. It is further pleaded that measurement of both the properties and fixation of the common bandh and boundary line by erecting stone markers is necessary in order to finally resolve the dispute regarding the common boundary and to avoid multiplicity of proceedings.

04. The plaintiff has further submitted that a rough sketch (Najari Nakasha) was filed along with the plaint and the plaintiff has specifically pleaded in paragraph No.3 of the plaint that the said rough sketch forms part and parcel of the plaint. However, due to an inadvertent clerical mistake, the north boundary has been mentioned as south and the south boundary has been mentioned as north, resulting in an incorrect recital of the boundaries of the suit property. It is categorically pleaded that the said mistake is purely accidental, clerical and bonafide.

05. It is further pointed out that defendant Nos.1 to 3, in their written statement, have themselves mentioned the boundaries of the suit property, and the said boundaries correspond to the actual physical position on the spot. Thus, the proposed amendment merely seeks to correct the boundary description so as to bring the pleadings in conformity

with the rough sketch already forming part of the plaint and the factual position admitted by the defendants. The plaintiff has categorically stated that the nature and character of the suit shall not change due to the proposed amendment.

06. The defendants have filed their say on the overleaf of the application opposing the amendment. It is contended that the proposed amendment would change the nature of the suit and would prejudice the rights of the defendants and, therefore, the application is liable to be rejected.

07. Order VI Rule 17 of the Code of Civil Procedure provides that the Court may, at any stage of the proceedings, allow either party to amend the pleadings in such manner and on such terms as may be just, and that all such amendments shall be allowed which are necessary for the purpose of determining the real questions in controversy between the parties.

08. It is well settled that amendments which are clarificatory in nature, amendments seeking to correct clerical or inadvertent mistakes, and amendments which do not introduce a new cause of action or alter the basic structure of the suit, ought to be allowed to advance the cause of justice.

09. It is equally well settled that mere correction of boundaries or description of property, when the identity of the property remains unchanged, does not amount to a change in the nature of the suit.

10. On perusal of the plaint, the rough sketch (Najari Nakasha) forming part of the plaint, and the written statement, it prima facie appears that the plaintiff has consistently identified the suit property and the common boundary. However, due to an apparent clerical error, the north and south boundaries have been interchanged in the description.

11. Significantly, defendant Nos.1 to 3, in their written statement, have themselves mentioned the boundaries of the suit property, and the said boundaries are stated to be correct. Thus, the identity of the suit

property is not in dispute.

12. The proposed amendment neither introduces any new relief nor sets up a new case. The reliefs of declaration and injunction remain intact. The amendment merely seeks to correct the boundary description with reference to the rough sketch already on record, so as to avoid ambiguity and to enable effective adjudication of the real controversy between the parties, namely, the dispute regarding the common bandh and boundary line.

13. The apprehension expressed by the defendants that the nature of the suit would change appears to be misconceived, as the foundational facts and cause of action remain unaltered. In view of the above discussion, this Court is of the considered opinion that the proposed amendment is bonafide, necessary for proper and effective adjudication of the dispute, and that no prejudice will be caused to the defendants which cannot be compensated by costs. Hence, I pass following order:

ORDER

01. The application under Order VI Rule 17 of the Code of Civil Procedure is hereby allowed.
02. The plaintiff is permitted to carry out the proposed amendment in the rough sketch which is part and parcel of the plaint.
03. The amended plaint shall be filed within 14 days from the date of this order.
04. The defendants are at liberty to file an additional written statement, if they so desire, within 14 days thereafter.
05. Costs of the application shall be costs in the cause.

Place :- Ahmedpur.
Date :- 03.01.2026.

(M.C. Hasge)
Jt. Civil Judge Junior Division,
(Court No.02) Ahmedpur,
Dist.Latur.