

	<p>Order below Exh.27 in Reg. Civil S. No. 1030/2022</p> <p>(Passed on this 16th day of October of 2023) <u>Bhagwan Vrs. Kaushalyabai & Ors.</u> CNR NO.MHLA060026762022</p>
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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. According to plaintiff, he has pleaded in para No.4 on the page No.3 in the plaint that, the defendant Nos.1 to 4 have been executed a sale deed bearing No. 3978 of 2019 dated 22/10/2019. Same is not binding upon plaintiff. Unfortunately, plaintiff shall remained to sought the said relief in prayer clause of plaint. So that, he wants to amend in prayer clause as para No.1/1 in the plaint as proposed amendment.

02. According to plaintiff 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 filed say on overleaf of the 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 prolong the matter. The suit is from the year of 2022, though, it is at initial stage. However, he has intentionally prolonged the matter by moving same nature of application.

04. Further submitted that, they averred in their written statement about the said sale deed. Even though plaintiff did not amend the plaint. However, plaintiff had filed application at Exh.18. Accordingly, he made amendment in the application. The plaintiff ought to have sought the proposed amend in the said application. Therefore, the present application is filed by plaintiff is not tenable. However, it would change nature of suit, if the application is allowed. Hence, they have prayer for rejecting the application for amendment.

05. I heard the Ld. Shri. B.H. Nanware, Advocate for plaintiff and Ld. Shri. S.R. Kendre 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 plaintiff is 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 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.

07. As matter of record it appears that, suit is posted for the evidence of plaintiff. Instead of adduced evidence plaintiff moved present application. I have gone through the plaint of plaintiff. It appears that, he has pleaded in para No.4 of the plaint that, the sale deed bearing No. 3978/2019 is not binding upon him. On other side defendants rightly argued that though the plaintiff had made amendment vide order-18, the plaintiff did not sought the proposed amendment. No doubt, the plaintiff ought to have sought the relief in the said application. Due to present application, matter has prolonged.

08. 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:-

09. 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. 5,00/-(Rupees Five Hundred 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 :- 16.10.2023.

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