

ORDER BELOW EXH.87

Present application is filed by the defendants under Order 06 Rule 17 of the Code of Civil Procedure to amend the written statement.

02. In short, it is the contention of the defendants that inadvertently some of the facts not mentioned in written statement But further pleading regarding the said fact is necessary to be inserted in the written statement as mentioned in the application. The proposed amendment will not cause harm to the plaintiff. It is in explanatory form. Hence, prayed to allow the application.

03. The plaintiffs opposed the application contending that they have closed their evidence. If the proposed amendment is allowed it will change the nature of suit. Hence, prayed for rejection of application.

04. Heard both the parties and perused their respective pleadings. After perusal of written statement, proposed amendment is concerned, it appears that defendants wants to add necessary facts. Therefore, the nature of proposed amendment is in explanatory form.

05. No doubt, in present matter, already the trial is commenced. Evidence of the plaintiffs is closed and matter is for evidence of defendants. Therefore there is delay in seeking amendment. As per amended provisions of the C.P.C., the amendment ought to have been sought prior to commencement of

the trial. In present matter the amendment is sought after commencement of the trial. Proposed amendment is necessary to resolve the dispute between the parties. Due to said amendment no prejudice will cause to the plaintiff nor the nature of pleading will be changed.

06. Though the suit is for partition. The defendants are denying the some facts, therefore, for effective decision in the matter, the pleading is necessary, for the delay on the part of defendants, the plaintiff can be awarded with costs. Hence, I pass following order.

ORDER

1. The application is allowed subject to costs of Rs.500/-.
2. The defendants shall carry out the amendment and file the amended written statement for the Court and copies thereof for the plaintiff.

Nilanga.
Dated:30.09.2021.

Sd/-
(K.S.Suryawanshi)
Civil Judge Senior Division,
Nilanga.