

MHLA110001332014

**Order below application vide Exh.249 in RCS No. 215/2010
Gorakhnath (Died) Through LRs. Vs. Mohan and Ors.**

Perused contents of the application and say thereon. Heard to learned advocates for the parties. They submitted contents of the application and say thereon. Perused the record.

2. The plaintiffs are seeking to carry out the amendment in title clause of the plaint as follows.

“claim – the suit is for perpetual injunction with respect to land ad-measuring 4 Acre 00 Guntha out of Block No. 36/C situated at village Dhanora Taluka Nilanga and allotment of 1/3rd share to the plaintiffs in the land ad-measuring 1 Acre 24 Guntha out of land Block No.9/B/3 situated at village Dhanora Taluka Nilanga and recovery of it’s possession.”

3. Similarly, the plaintiffs are seeking to mention Northern boundary of ancestral land Block No.9/B/3 as lands belongs to Apparao and Dadarao Jadhav and carryout the amendment accordingly. Similarly, the plaintiffs are seeking to mention land Block No.9/B/3 instead of 9/3/B and carryout the amendment accordingly.

4. The plaintiffs came to know about the alleged errors when he perused the record for adducing final argument. The errors are minor and typographical. The defendants contended that the plaintiffs are going to amend the title clause after laps of

15 years. At present, the suit is fixed for final argument. The plaintiffs are prolonging the matter so as to harass the defendants. Nature of the suit is being changed due to the proposed amendment. Therefore, the defendants lastly prayed to reject the application.

5. The perusal of record it make clear that, the plaintiffs have initially mentioned Block Number of the disputed land as 33/C in the title clause of the plaint. Now, the plaintiffs are seeking to mention Block number of the disputed land as 36/C instead of 33/C in the title clause of the plaint. Similarly, the plaintiffs have initially mentioned Block Number of the another disputed land as 9/3/B in the title clause of the plaint. Now, the plaintiffs are seeking to mention Block number of the another disputed land as 9/B/3 instead of 9/3/B in the title clause of the plaint. Similarly, the plaintiffs are seeking to mention Northern boundary of the ancestral land Block No.9/B/3 as lands belong to Aparao and Dadarao Jadhav. The plaintiffs had initially mention there village Palapur shiv. By the amendment, the plaintiffs are seeking to mention Norther boundary as lands belong to Apparao and Ddadaro Jadhav instead of village Palapur shiv.

6. The perusal of record it reveals that, the defendants in their written statement rightly mentioned the Block numbers of the disputed lands as 36/C and 9/B/3. Accordingly, the suit is proceed further till the stage of final hearing. The alleged error appears to be typographical and technical. Undoubtedly, the matter was fixed for final argument. The arguments are yet to be

adduced. There is delay on the plaintiffs' part. However, the application discloses that the alleged error came to know when the record of the suit was perused so as to adduce final argument. Moreover, the present application is filed along-with affidavit vide Exh.250 whereby plaintiff No.5 also affirms that the alleged error came to know when the record of the suit was perused so as to adduce final argument. The defendants never specifically disputed fact that the plaintiffs came to know about alleged errors as aforesaid. In such circumstances, it thinks probable that the plaintiffs came to know about alleged errors when their advocate perused the record of the suit so as to adduce the final argument. In such circumstances, delay may be compensated with the costs.

7. Moreover, nature of the suit will not be changed only by getting corrected the Block numbers and northern boundary. Averment in the plaintiff, prima-facie reveals that the plaintiffs are alleged to have been owner of the suit property by purchase. Land situated in Block No.9/B/3 is alleged to have been ancestral and belongs to the joint family. The defendants denied the plaintiffs' entire claim and lastly contended to dismiss the suit. In such circumstances, allowing the plaintiffs to carryout the proposed amendment would help to decide real controversies between the parties finally on merits and would also helpful to avoid multiplicities of the suits and proceedings. Moreover, bringing the facts on record by the proposed amendment is different from having the entitlement or dis-entitlement to the reliefs sought for. In such circumstances, no prejudice or hardship would cause to the defendants if the proposed amendment is allowed to be carried out. In view of the matter,

considering the aforesaid facts, rival pleadings, it would be just and proper to allow application vide Exh.249. Hence, in the interest of the justice, I pass following order.

ORDER

- 1 Application vide Exh.249 is allowed.
- 2 The plaintiffs are permitted to carry out the amendment in the plaint as prayed subject to costs of Rs.1,500/- payable to the defendants.
- 3 No order as to costs.

Date :10/11/2025
Place: Nilanga

(R. V. Pande)
Civil Judge, Senior Division, Nilanga,
District Latur.