

ORDER BELOW EXH. 57 IN R.C.S. No. 89/2015
(Mannabi Vs. Tabassum & others)

CNR No. MHLA130005782015

The present application is filed by the plaintiff u. O 6 R 17 of the Civil Procedure Code. By filing the present application by the plaintiff it is submitted that she has file present suit for declaration of ownership and perpetual injunction, wherein she has stated that the suit property is gifted by her son Rabbani & Mehtab but inadvertently the nature and origin of the suit property has not been mentioned in the plaint. So, she wants to amend the plaint by adding para 2-A in the plaint. She further submitted that the proposed amendment will not change the nature of the suit, therefore, in the interest of justice application may be allowed.

2. The ld. advocate for the defendant nos. 1 to 3 filed their say and submitted that the present suit is filed by the plaintiff on 16/10/2015 and the present application is filed in the year 2019 after four years. The application filed by the plaintiff is only to prolong the matter. If the proposed amendment is allowed then it will change the nature of the suit. Therefore, application is not maintainable and it may be rejected with heavy costs.

3. The defendant no. 4 has not filed his say on the present application.

4. Heard ld. advocate for the plaintiff and defendant nos. 1 to 3. Perused the record.

5. After perusal of the record it is seen that the plaintiff has filed the suit of declaration of ownership and injunction. By filing present application the plaintiff submitted that now she wants to

(2)

mention the nature and origin of the suit property. She further stated in the application that her sons namely Rabbani and Mehtab filed a suit for declaration bearing R.C.S. No. 353/1980 and the said suit was decreed and they were declared as owner of the suit property. In order to show that the plaintiff has filed certified copy of decree of the said suit. The ld. advocate for the defendant no. 1 to 3 submitted that the proposed amendment will change the nature of the suit. But, he has not stated that how the nature of the suit will be changed. As the plaintiff has filed the suit for declaration, it is necessary to bring on record the nature and origin of the suit. Admittedly, the plaintiff has filed the present application after 4 years after filing the present suit, but i.e. not sufficient to reject the application straight away. It is seen that the proposed amendment will help to adjudicate the suit. Hence, I proceed to pass the following order:

ORDER

1. The application is allowed.
2. The plaintiff is directed to carry out necessary amendment till next date and to furnish amended copy of plaint.
3. No order as to costs.

Dated 12/02/2020

**(O. M. Mali)
Civil Judge J.D. Renapur.**