



Order passed below Exh.25

The present application is filed on behalf of the plaintiffs under the provisions of Order VI Rule 17 of the C.P.C.

2. The plaintiff has contended that the present suit is filed by them for measurement and fixation of boundaries. Accordingly TILR Asua was appointed as a court commissioner. The TILR AUSA submitted his report on 26.5.2020. In the course of said measurement it was revealed that, defendants No. 1 and 4 have encroached upon the land of the plaintiffs. Therefore the plaintiffs want to carry amendment in the pleading as per the report submitted by TILR AUSA.

3. The suit has proceeded ex-parte against defendants No. 1, 3, to 8. The suit has proceeded without w.s. against defendants No. 2 and 4. The defendants have failed to file say to present application. Therefore application proceeded without say of defendants.

4. Perused the record, read the application. Heard Ld. Adv. Shri. V. M. Vagdare for the plaintiffs.

5. The present suit is for measurement and fixation of boundaries and perpetual injunction. Perused the map filed by TILR AUSA.

On perusal of the said map it appears that prima facie there is substance in the argument that TILR AUSA has noticed encroachment on the land of plaintiffs. The amendment sought is consistent with the map filed on record. Hence no new case is introduced by the plaintiffs. Further the defendants will be always at liberty to cross-examine the TILR. Hence no prejudice would cause to the rights of the defendants if the application is allowed. From the proposed amendment it appears that the plaintiffs seek amendment due to the map filed by TILR AUSA. Therefore, for determining the real question of controversy between the parties and for complete and effectual adjudication of matter on merit, the proposed amendment is necessary. Therefore, I proceed to pass following order.

ORDER

1. Application is hereby allowed.
2. The plaintiffs to carry out proposed amendment within 14 days from the date of this order.
3. No order as to costs.

Place: AUSA

(Smt. P.R. Kulkarni)

Date: 05/02/2021

Jt. CJJD, AUSA