

1. R.C.S.No. 323/2015

Shiv Hari Vs. Sahadev

### **Order passed below Exh 50**

1. This is an application filed by plaintiff under order VI Rule 17 of the code of Civil Procedure for amendment in plaint.

2. According to plaintiff this suit filed for perpetual injunction. In pleading by mistake the boundaries of suit property was wrongly mentioned. It is typing mistake. The Plaintiff prayed for correction of boundaries in hands sketch map. He lastly prayed for allowing application.

3. The defendants have filed their say. They denied all allegations and prayer of plaintiff. According to defendant the amendment application is not maintainable. The plaintiff has not given any sufficient reason and ground for filing the amendment application. Lastly the defendant prayed for rejection of application.

4. Heard advocates for both the parties. The following points are arises for my determination and I given my findings thereon with my reasons are as under

#### **Points**

#### **findings**

1. Whether the proposed amendment is necessary for the purpose of determining the real questions in the controversy between the parties?
2. What order?

Yes

As per final Order

## **Reasons**

5. Read the plaint, written statement, application and say.

6. It is settled law that in order to deal with application under order VI rule 17 of the code of civil procedure, court shall consider that whether the purposed amendment needs for determining the real question of controversy.

7. On perusing the application it reveals that plaintiff prayed to amendment in plaint and wanted to insert pleading in respect of boundaries and sketch map.

8. The proposed amendment does not change the nature of suit. The proposed amendment does not harmful to defendant. But purposed amendment if not allowed it is cause prejudice to plaintiff. In these circumstances I found substance in the application and argument of advocate for plaintiff. The purposed amendment needs for determining the real question of controversy. Therefore it is necessary to allowed application.

9. Considering the above position I answer point no. 1 in the affirmative and in answer to point no. 2 I pass the following order.

### **Order**

- 1 The application is allowed.
- 2 The plaintiff is allowed to amend plaint within 14 days from today.
- 3 No order of cost.

Date- 24/06/2019

( S.P.Jadhav )  
Jt. C.J.J.D. AUSA