



RCS No. 42/2022  
Vishwanath Vs.. Pandurang & ors.  
Exh. No. 20

**ORDER BELOW EXH.20**  
**[ MHLA150001962022 ]**

The present application is filed by Plaintiff for amendment in the application below Exh. 5 under Order 6 Rule 17 of code of civil procedure.

2. Plaintiff contended that, the present suit is filed for Declaration and Injunction of suit Property and it is pending for argument on Exh. 5. However, in advertitently plaintiff has not mentioned in the prayer clause of application below Exh. 5, that “ Prayer Para no. I/A ) that the defendant may kindly be restrain permentantly from alinating suit property mentioned in the para no. 5 of the application till final disposal of the main suit. These facts are necessary for proper and legal adjudication of the matter. Present amendement will not change the nature of defence and no prejudiced will be claused to the defendant, if one prayer para is added in prayer clause of the application below Exh. 5. Hence, plaintiffff prayed to allow the application as prayed.

3. Defendant file his say on the backlief of the application and contended that present application is against the provision of law. Plaintiff has no right to claim this kind of amendment. This amendement will change the main prayer of the application. So it can



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not be made. Plaintiff can file separate application claiming temporary injunction. This application is without any reason hence defendant prayed to reject the application.

4. Perused application and affidavit filed in support of this application. Heard learned advocate for plaintiff and defendant. On perusal of the proposed amendment, it appears that the present suit is filed for Declaration of Ownership and Perpetual Injunction and it is kept for argument on Exh. 5. The evidence of parties yet to be commence. If amendment is allowed there is no any harm will be caused to defendant nor nature of suit changed. Suit is relating to immovable property. Right of the parties involved in it. Hence, considering the said fact, it is necessary to grant permission for amendment in prayer clause of application below Exh. 5 as prayed by the plaintiff for just and proper decision of the suit.

5. Present suit is filed for Declaration of Ownership and Perpetual Injunction against defendant. In the present suit, if such proposed amendment will allow then it would not cause any prejudice to defendant. Considering the nature of the amendment, it reveals that present amendment is only in respect of prayer clause in application below Exh. 5. In order to decide the real controversy between the parties and in order to decide the present application below Exh. 5 on



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merit and considering the nature of propose amendment in present application below Exh. 5, this Court is inclined to allow the present application. No harm would be caused to defendant if poposed amendment is allowed. It will not change the nature of application. It is necessary for proper adjudication of the application below Exh. 5. For the just decision of the application below Exh. 5 it is necessary to allow the present amendment in the application below Exh. 5. Thus, I pass the following order-

**ORDER**

1. The application below Exh.09 is allowed.
2. The proposed amendment in application below Exh. 5 shall be carried out by the plaintiff within 14 days of passing this order.
3. plaintiff is directed to supply the copies of amended application below Exh. 5 after proposed amendment.

Place:- Chakur  
Date:- 24.04.2024

( M. S. Luniya )  
Jt. Civil Judge Junior Division,  
Chakur