

**Order below (Exh. 86)**  
*(Passed on 01.11.2023)*

The defendant has filed present application for seeking amendment in the plaint vide Order VI Rule 17 of The Civil Procedure Code,1908 (in short 'CPC').

**2.** In short, the defendant submitted that the plaintiff has filed the suit for ejectment possession and fair rent and the recovery of mesne profit. The defendants have filed the suit for declaration and injunction before the Kamptee court in R.C.S. No. 63/2015. It admitted fact on record that the plaintiff in the year 2007 had filed the similar suit before the Hon'ble court which came to be registered as RCS No. 49/2007. The said suit the plaintiff and defendants entered into the compromise and accordingly on 08.10.2010 consent decree came to be passed. The defendants submitted that the defendants are tendering the rent regularly and they have not committed any default till date. The defendants in order to bring the subsequent development on record wants to amend the written statement by adding specific pleading in the written statement. Hence, defendants prayed to allow the application.

**3.** The plaintiff filed his reply on the application below Exh. 87 and submitted that the suit was filed on 27.07.2015. The

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issues were framed on 18.01.2016. The plaintiff adduced his evidence on 04.09.2017. The trial has commenced and rigorous of provision order VI rule 17 is applicable as application is filed on 24.01.2023. The defendant has already filed counter civil suit R.C.S. No. 63/2015 which is pending before principal court, Kamptee. The proposed amendment is relating to the counter civil suit R.C.S. No. 63/2015. The defendant has no right to amend the written statement. Hence plaintiff prayed to reject the application with compensatory costs.

**4.** Perused application and say. Perused the record. Heard both parties. The present suit is filed for ejection possession and fair rent and the recovery of mesne profit. The defendants wants to amend the written statement in respect of subsequent development and regarding the payment of rent. It is well settled that court should be liberal in granting the prayer for amendment of pleadings, unless serious injustice and irreparable loss would cause to other side. So also to determine the real question in controversy between the parties and to decide the case on merits the amendment can be allowed. From the nature of the proposed amendment it is clear that it will not cause any injustice or irreparable loss to the plaintiff.

**5.** Therefore to avoid multiplicity of the proceedings it is necessary to give chance to the defendants to amend the written

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statement. The defendants will get opportunity to defend their case. No prejudice will be caused to the plaintiff, if permission is granted. Hence, the application needs to be allowed in the interest of justice. Accordingly, following order is passed.

**ORDER**

1. The Application is allowed.
2. The defendants shall carry out the amendment within 14 days from the date of the order.
3. The defendants shall file copy of amended written statement accordingly.

**Kamptee**  
**Date : 01/11/2023.**

**Sd/-**  
**(Shri. Sagar S. Jadhav)**  
**Jt. Civil Judge, Junior Division,**  
**Kamptee.**