

-: ORDER BELOW EXHIBIT NO. 21 :-  
{Passed on this 11th day of September, 2014}

01. Perused the application, say of defendant No.1 and the record. Heard both the sides. Considering the rival submissions and material available on record, the points for determination along with my findings and the reasons therefor are as under:-

<u>Sr. No.</u>	<u>POINTS</u>	<u>FINDINGS</u>
(i).	Whether the proposed amendment is necessary to decide real question in controversy ?.....	... Yes.
(ii).	What order ?.....	... Application is allowed.

-: REASONS AND FINDINGS :-

AS TO POINT NOS.1 AND 2 :-

02. This is the application, filed by the plaintiff, vide Order VI Rule 17 of the Code of Civil Procedure,1908, for amendment of her plaint. By filing of this application, she contended that inadvertently, by typing mistake, in Page No.2, Para No.2 of her plaint, she averred the suit property as ancestral property of her father, which, in fact, was his self acquired. Additionally, it is her anxiety to incorporate the fact, that her father purchased the suit fields by virtue of registered sale deeds of dt. 02.04.1980 and 06.03.1984. In reply, defendant No.1 objected this application on the ground that it would take away her admissions and will change the nature of her pleadings.

03. Heard both sides. Having considered their submissions, at the outset, it is to be noted that this suit is filed for a partition and separate possession of the suit properties. Since inception, it is being contended by the plaintiff that the suit properties were self acquired properties of her father. On this basis, she is praying for it's partition. As such, considering the over all tenor of plaint averments, it can be safely concluded that it is her stand that the suit properties were the self acquired properties of her father. On this background, certainly, in Para No.2 of her plaint, the words 'Self acquired' are unmatched to her basic case. The suit is at initial stage and trial is yet to commence. Moreover, the proposed amendment is formal in nature and it is for the plaintiff to substantiate it on merit. As such, no prejudice would be caused to the defendants, as they will get an equal opportunity to meet her contentions. Simultaneously, this amendment would surely assist the court to decide the suit controversies effectively and finally. In the circumstances, I am of the view that this application needs to be allowed and therefore, I answered point No.1 in the affirmative. In the result, to answer to point No. 2, I pass following order :-

-: ORDER :-

- (i). The application(Exhibit-21) is allowed. Accordingly, the plaintiff is permitted to incorporate the proposed amendment in the body of her plaint, positively till next date.
- (ii). Costs to follow the event.

Sd/-

{A.G.Santani}

Civil Judge Junior Division, Saoner.

Dist. Nagpur.

Saoner.

Date : 11.09.2014.