

**ORDER BELOW EXH.58 in RCS No. 52 / 2013**

**(Passed on 12<sup>th</sup> day of July, 2017)**

1) Perused the application and say. Heard arguments advanced by counsel of both the sides.

2) This is an application for amendment of written statement under Order 6 Rule 17 of Code of Civil Procedure. Defendant no. 1 want to add para 6 with contents of market value of property and incorrect court fees. It is submitted that Defendant want to add said facts in written statement.

3) Plaintiff in her say opposed the application by submitting that the proposed amendment is not tenable under law as previously twice amendment application was moved to prolong case. Hence, she prayed to reject the application. She relied on Chandrashekhar Pandurang Tumsare vs. Dr. Balkrishna Shivkaran Changani, 2016 (4) Mh.L.J. 389 wherein it was held that amendment could not be allowed, if Defendant could not bring on record facts sought to be brought on record by proposed amendment. Said facts are different as here is case of only addition of law points of market value and incorrect court fees. Hence, with great respect, said authority is not applicable to facts of present case.

4) Keeping in mind the settled position, it is not necessary for this court to go in proof of amendment sought. Proof of facts is not to be looked at this stage. Proposed amendment will help adjudication of suit on merits as same relates to contents of sale deed, property number and prayer clause. Basic nature of the suit will not be changed, if the application is allowed. In fact, amendment will help to prevent multiplicity of litigations. No prejudice will be caused to Plaintiff as basic nature of suit will not be changed by proposed amendment in written statement. It is necessary for adjudication of real dispute between the parties without taking too technical view. Hence, I proceed to pass following order as under.

**ORDER**

1. Application (Exh.58) is allowed as prayed subject to costs of Rupees One Thousand only to be given to other side for causing inconvenience.

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2. Defendant no. 1 is then directed to carry out amendment in written statement. He is also directed to supply copy of amended written statement on record and to the parties.

Saoner.

Date : 12.07.2017

Gajanan G. Soni  
Civil Judge Junior Division, Saoner.  
District Nagpur.

**C E R T I F I C A T E**

**“I affirm that the contents of this P.D.F. File of order are  
word to word, as per original order.”**

**Name of Stenographer: N. B. Payade**