

- : ORDER BELOW EXHIBIT NO.40 :-

{Passed on this 3rd day of January, 2017}

01. Perused the application, say of the plaintiffs and the record. Heard both sides. Having considered their submissions.

02. This is the application, filed by defendants, under O. VI R. 17 of the C.P.C., 1908, for incorporating the proposed amendment in their written statement. By filing this application, defendants contended that during pendency of this suit initially, plaintiffs have added defendant No.3 as party and also amended the plaint by adding para No.3-A in the plaint and added pleading. In view of these circumstances defendants desires to amend their written statement to add para No.3-A and para No.12 in their written statement. On this background, in this application, they are willing to incorporate facts in the nature of denial. The plaintiffs objected this application mainly on the grounds that proposed amendments is at belated stage and made in order to delay the present suit. The proposed amendment changes the nature of defence and is an attempt to insert new defence in written statement.

03. Considering the rival submissions, at the outset, it is to be noted that this is a suit for declaration, permanent injunction and for possession. The record shows that, plaintiffs have amended their plaint. At the outset, it is to be noted that bare perusal of the proposed amendments leaves no doubt to infer that it is nothing but in consequence of the recent amendments carried by the plaintiffs. It is pertinent to mention that, till today the trial has not been commenced, I feel that belated consequential amendment in written statement will no cause plaintiff's case at this later stage and therefore, this application is fully justified. Moreover, the proposed amendment would certainly reduce the chain of litigation and would also facilitate this court to decide the suit issues effectively and

finally. At the same time, even the adversaries would get the equal opportunities to meet proposed consequential amendments and as such, it would not affect their interest too. On the other hand, it would not be just and proper to allow the proposed amendment at this juncture without compensating plaintiffs. In the circumstances, I am of the opinion that the present application needs to be allowed. Hence, I pass following order :-

:- ORDER :-

- (a). The application (Exhibit No.40) is allowed, subject to costs of Rs. 300/- payable to plaintiffs. Accordingly, the defendants are allowed to incorporate the proposed amendments in the body of their written statement, positively till next date.
- (b). After compliance defendants to file amended copy of written statement along with additional copies for plaintiffs.
- (c). Parties to take note.

Sd/-

{V.V. Joshi}

2nd Jt. Civil Judge Junior Division,
Saoner, Dist. Nagpur.

Saoner.
Date -03.01.2017.

C E R T I F I C A T E

I affirm that the contents of the this PDF file order are same word to word, as per the original Order.

Name of the Stenographer :- S. D. Bhimte (Lr. Gd)
Court Name :- 2nd Jt. Civil Judge Jr. Dn,
Saoner, Dist. Nagpur.