

**Regular Civil Suit No.25/2014  
Gulab & oth. Vs. Usha & oth.**

**ORDER BELOW EXH.No.36**  
(Passed on 6<sup>th</sup> of March, 2017)

The plaintiffs have moved the application for amendment in the plaint under Order 6 Rule 17 of C.P.C.

2. According to the plaintiffs, the agreement dated 21.05.2014 which is said to have been executed by defendant No.1 is false and bogus as it is executed in collusion with defendant No.2. The plaintiffs want to deny the execution of the said agreement in the plaint and therefore, the relevant facts and the prayer clause in this regard is intended to be inserted in the plaint by way of this application.

3. The Learned advocate for the defendant, Mr. Naware opposed the application and has come with the stand that this application came to be filed as belated stage and therefore, it is liable to be rejected.

4. Having perused the application and the record, I heard the Learned advocates for the both sides. In view of the rival pleading and the documents placed on record, following points are formulated for my determination and I record my findings thereon with reasons as follows :

Sr. No.	<b><u>POINTS</u></b>	<b><u>FINDINGS</u></b>
1	Whether the proposed amendment is justified ?	Yes
2	What order ?	The application is allowed as per final order.

**REASONS****As to point No.1 :**

5. In the instant suit, the plaintiffs has sought the preferential right along with the injunction. So also, the relief regarding the alleged agreement to sell has already been incorporated in the plaint. Thus it prima facie appears that the plaintiffs are going to elaborate the facts and they are just denying the execution of the said agreement to sell. Hence, it can be held that the proposed amendment would not change the nature of the suit.

6. Though this application came to be moved after filing the written statement, yet the trial is yet to be over. Apart from this, the delay in filing this application can be compensated by imposing the costs. Thus in short, in order to have fair trial, I am of the opinion that the application deserves to be allowed. Hence, I record my finding in affirmative for point No.1 and proceed to pass the following order.

**ORDER**

- (i) The application (Exh.No.36) is hereby allowed subject to costs of Rs. 500/- (Five hundred only) and the same shall be payable to the defendants.
- (ii) The plaintiffs shall carryout the necessary amendment within the stipulated period and shall file the amended copy of the plaint.

Ramtek  
Date : 06.03.2017

(Sujitkumar C.Taide)  
Civil Judge, Jr.Dn., Ramtek.

**CERTIFICATE**

I affirm that the contents of this P.D.F. file Order are same word for word as per original Order.

Name of Stenographer

:- G. S. Dongardive

