

Regular Civil Suit No.25/2017
Suryakant Vs. Madhav

ORDER BELOW EXHIBIT- 86
(Passed on this 21st day of December,2021)

Perused application and say.

2. Defendants have strongly objected amendment application referred by the plaintiff. I heard learned advocate Shri. M.D. Paliwal for the plaintiff and learned advocate Shri. A.A. Mardikar for the defendants.

3. Considering the submissions following determination are arises for my consideration. Those points are given alongwith my findings as under:-

Sr. No.	Points	Findings
1.	Whether present application is maintainable at this stage?	...In affirmative.
2.	Whether plaintiff is entitled for amendment as sought?	...In affirmative.
3.	What order?	...Application is allowed.

4. Both points are interlinked with each other to avoid repetition both are discussed together.

As to Point No.1 and 2:-

5. Advocate Shri. Paliwal for the plaintiff argued that during pendency of this suit it came to the notice of the plaintiffs and their counsel that some important contents related to this matter were inadvertently left from the plaint. Present amendment is necessary for detail elaboration of facts. Due to said reasons the following amendments are very necessary .

6. On the other hand learned advocate for defendants argued that the application for amendment filed by the plaintiff has been filed after recording of examination in chief of the plaintiff. The trial is at advance stage and there is no provision in law to make such application. Hence, requested to reject

the application.

7. On perusal of plaint it appears that, the plaintiff have made some averments regarding source of title and claim of possession. Now I perused proposed amendment which shows that, the plaintiff have proposed to aver about relationship, possession and ownership of predecessor. Considering nature of propose amendment I do not find any infirmity to allow the application, which is proposed for elaboration of fact which have already pleaded. The plaintiff is not bringing any new case or facts, which may change nature of entire suit. In such circumstances present amendment is necessary. No serious prejudice will cause to defendants if this amendment is allowed. On the contrary it will help to decide suit on merit. It is settled proposition that Court shall remain liberal while deciding amendment. Considering the reason given I am satisfied to allow the application by imposing costs. Hence, present application is deserves to be allowed. Hence I answer of point no.1 and 2 is given in affirmative.

As to Point No.3:-

8. considering answer of point number 1 and 2, I am come to conclusion that ,the application filed by the plaintiff is deserve to be allowed, and the plaintiff is entitle for relief of injunction as sought. Hence the following order:-

ORDER

1. Application Exh.86 is allowed with costs of Rs.300/-.
2. The plaintiff is hereby permitted to amend the plaint as prayed and file amended plaint.
3. The plaintiff is directed to supply the copy of amended plaint to the parties.
4. The defendants are set at liberty to file additional written statement after receipt of amendment plaint.

Parseoni.
Date-21/12/2021.

(O.J.Kulkarni)
Civil Judge, Jr. Dn., Parseoni,

