

ORDER BELOW EXH. 87

The present application is filed on behalf of the plaintiff under Order 6 Rule 17 of Civil Procedure Code, 1908, for amendment of plaint.

2. It is submitted on behalf of plaintiffs that, by way of order below Exh.62 plaintiffs amended the plaint and name of defendant No.9 Suresh Karbhari Navale came to be added as party to the suit. In spite of issuing suit summons on various occasions it could not be served on defendant supra due to his insufficient address. Plaintiffs on inquiry and perusal of 7/12 extract of Gat No.17 came to know that there is mistake in the surname of the defendant No.9. As per 7/12 extract supra his name appears as Suresh Karbhari Nandale instead of Suresh Karbhari Navale. However, by mistake it is mentioned as Suresh Karbhari Navale in the plaint. Thus, The mistake in name of defendant No.9 cause supra is not intentional and it is ministerial and typographical mistake. Plaintiffs wants to correct the surname of the defendant No.9 in view of present amendment application. The proposed amendment would not change the nature of suit. Thus, requested to allow the application.

3. Defendants by filing their say below Exh.93 objected the application. It is submitted that, the contents of the application are false. Plaintiffs have been sought various amendments in the plaint. Plaintiffs failed to filed 7/12 extract on record. Plaintiffs are trying to prolong the matter and cause harassment of defendants, therefore, requested to reject the application.

4. After considering the matter before the court and hearing both the sides the following points arises for my determination and I have given my findings for the reasons recorded thereon.

Sr No.	Point	Findings
1.	Whether proposed amendment will change nature of suit?	No.
2.	What order ?	As per final order.

- REASONS -

AS TO POINT NO.1 :-

5. Plaintiffs in support of their submissions filed on record 7/12 extract of Gat No.17 of village Yerandgaon (Budruk), Tal. Yeola, Dist.Nashik. It appears that, the name of Suresh Karbhari Nandale appears in the ownership and possession column of 7/12 extract. It means, the name of defendant No.9 is Suresh Karbhari Nandale instead of Suresh Karbhari Navale. While considering the application for amendment it has to be seen that whether purposed amendment will change the nature of suit. By way of present amendment plaintiffs seeking correction in the name of the defendant No.9. The correction sought by plaintiffs is appears to be ministerial mistake. If amendment sought is granted the defendants are not at prejudice. On the contrary, if amendment application is not allowed then the real controversy between the parties could not be adjudicated. Therefore, for determination of real controversy the proposed amendment is necessary to be carried out.

6. It is submission of Ld. Advocate on behalf of the defendants that various application were given for amendment of pleadings by plaintiffs since filing of suit. Plaintiffs while moving an application Exh.62 ought to have been verified the name of the defendant No.9. As such, considering default of plaintiff I am inclined to allow the application by imposing cost. Thus, I answer point No.1 in negative.

AS TO POINT NO.2.

7. After considering the finding as to point No.1, I am inclined to allow the application and in answer to point No.2 pass the following order-

ORDER

1. The application is allowed subject to cost of Rs.500/- (Five Hundred).
2. The plaintiff shall carry out the amendment within fourteen days from the date of this order and supply the amended plaint accordingly.

Place :- Yeola.

Date :- 24/02/2022

(A. S. Kambale)

Civil Judge Jr. Div. Yeola, Dist. Nashik.