

Order below Exh. 95 in Reg. Civil Suit No. 55/1994

1] This is an application for amendment and withdrawal of suit claim against the some of the defendants. This application is supported with an affidavit. Despite of sufficient opportunity given to other side they have failed to file say, hence application proceeded without say.

2] Heard the learned advocate for plaintiff. The suit is for partition and separate possession alongwith consequential relief thereof. As per the contention of the plaintiff during pendency of the suit defendant no. 9,14 and 15 have executed relinquish deed in favour of defendant no 2 to 4 vide document bearing No. 8917/2012. Therefore defendant no. 9, 14 and 15 have no relation with suit property. In support of their contention the plaintiff has filed on record document of mutation entry of 3572 and 3288 at list Exh.97. On perusal of these documents it appears that, vide these mutation entry by relinquish deed the names of defendant no. 9, 14 and 15 were deleted from the suit property. As the plaintiff wants to delete their names from the array of parties from plaint. Till today evidence not commenced therefore, no prejudice would be caused to the defendant if plaintiffs are permitted to delete the name of defendant No. 9, 14 and 15 from suit. It is just like withdrawal of the claim against those defendants.

3] Further, in this application the plaintiff has also sought the amendment in para no. 8A of the plaint which consequential to his first prayer of deletion of the name of defendant 9, 14 and 15.

4] From record it reveals that the suit is of year 1994. Initially the suit was dismissed for default on 21/7/2003. Lateron, it was restore vide order dated 30/01/2008 passed in CMA No.

15/2003. However, till today evidence not commenced. It is well settled that, the court has to be liberal in permitting the amendments unless serious injustice or irreparable loss is caused to the other side and if the nature of the suit is not likely to be changed. As a result of amendment, it should normally be permitted. In the instant case in my view no prejudice will be caused to the defendants if proposed amendment is allowed and defendants are at liberty to file written statement in respect of proposed amendment. The plaintiff has moved this application at belated stage. The delay can be compensated by saddling costs. Hence, I pass the following order.

ORDER

- 1] Application Exh. 95 is allowed subject to cost of Rs.300/- (Rupees three hundred only) to be paid to T.L.S.A. Sinnar.
- 2] The plaintiff is permitted to carry out proposed amendment and file the copy of amended plaint within stipulated period.

Sd/xxx

Place : Sinnar	}	(S.N. Ratkanthwar-Jawadwar)
Date : 13.09.2016	}	Civil Judge (Junior Division), Sinnar.