

Order below Exh.45 in R.C.S. No. 95/2017.

The plaintiff has sought amendment *vide* Order VI Rule 17 of the CPC in the name of plaintiff in the title clause of plaint and in plaint para No. 3 about inserting the name of village Mouje Dangsoundane Tal. Baglan Dist. Nashik of Gat No. 215. The application is strongly resisted on the ground that the plaintiff ought to have verified names at the time of institution of the suit. Accordingly, it is prayed that the application may be rejected. Perused application, say and the record. Heard both the sides at length.

2. The present suit for partition of Gat No. 215 ad-measuring area 1 H. 80 R. However, it is submitted that inadvertently in plaint para No. 3 the name of village i.e. Mouje Dangsoundane was not mentioned. Thus, it is claimed that if the name of village of Gat No. 215 is not mentioned in plaint Para No. 3, it would cause hurdle to decide the suit on merit. It is further claim that the plaintiff's name is Sou. Sushila @ Bhikubai Shivman Wagh @ Sou. Bhikubai Rama @ Ramdas Ahire. Therefore, the correct name of the plaintiff needs to be mentioned in the title clause of the suit. Accordingly, it is prayed that the application for amendment be allowed.

3. The defendant by filling say below overlap (Exh. 45) submitted that the name of plaintiff can not be changed by this amendment. If such amendment is allowed the nature the suit be changed. Accordingly, defendant prayed for rejection of the application (Exh. 45).

4. The plaintiff in support of the contention made in the application has accordingly filed affidavit (Exh.46) claiming that her wrong name was inadvertently written in the title clause of the plaint. It is not contention of defendant that proposed name of the plaintiff is wrong. Thus, said mistake appears to be out of

inadvertence. The proposed amendment is technical in nature. It would not change the nature of suit nor would introduce an altogether new case. The proposed amendment is essential for avoiding multiplicity of litigations. The conduct of plaintiff, therefore, deserves to be exemplified. The present suit is for partition Gat No. 215 situated at Mouje Dangsoundane. In this regard the plaintiff has filed at list (Exh. 3) 7/12 of suit property. Thus, there appears substance in the contention of the applicant that Gat No. 215 is situated at Mouje Dangsoundane. In such circumstances if the proposed amendment is not allowed present suit for partition can not be disposed off and decided effectively. Hence, the application is allowed as prayed subject to costs of Rs. 300/-. The plaintiff shall carry out appropriate amendment in the plaint and shall file copy of amended plaint on or before next date without fail.

(Dictated and Pronounced in Open Court)

Date:- 04.02.2021.

**(A.G.Tamboli)
Jt. Civil Judge, J.D., Satana.**