

MHOS130009462017



R.C.S.No.454/2017
Shafik/Rafik

Order Below Exh.19

Plaintiff has moved application of amendment of plaint as per Order VI Rule 17 of Code of Civil Procedure. To this application defendants have filed say below same exhibit and strongly objected the application of applicant.

2. By way of this application, plaintiff submitted that suit is instituted for partition and separate possession of suit property. Inadvertently, at the time of typing plaint, in para 1 instead of Sida Rambhau Babar the word Meera Rambhau Babar was typed. Therefore, application is moved for permission to amend the plaint. The proposed amendment will not caused changed the nature of suit. If application is rejected plaintiff would suffer irreparable loss.

3. Defendants objected the application on the ground that application is illegal and filed very late. If application is allowed nature of suit will change. Therefore, application may kindly be rejected.

4. Learned advocate for plaintiff submitted that, the mistake at the time of typing plaint was caused. Trial of suit is not commenced. The proposed amendment is asked to remove technical difficulties. Therefore, required to be allowed because suit cannot be decided on merit otherwise. Considering the opportunity application may kindly be allowed.

5. Learned advocate for defendant submitted that, application

is not tenable in the eyes of law. Because contention made in the application are false and frivolous. Application may kindly be rejected.

6. I have given thoughtful consideration to the argument advanced by the both parties. It appeared that suit is instituted for partition and separate possession in which plaintiff submitted that mistake was happened at the time of typing the plaint. Considering the nature of mistake it is only appeared as technical in nature. At this stage, there is no requirement to go in to the merits of the case. Application for amendment into pleading is opportunity to both parties to proceed with the suit. In present case, plaintiff submitted that inadvertently mistake was happened. Therefore, if application is rejected, plaintiff would suffer irreparable loss. It is argument and fact produced by the plaintiff. As per Order VI Rule 17 of C.P.C. opportunity to the other side will be open on additional W.S. as well as evidence if any. At the first stage hyper technical view and merits of the case can not be taken in to consideration. Hence, no purpose would be served by rejecting the present application. But, as per the reason mentioned by the plaintiff costs is required to be imposed. I proceed to pass following order.

O R D E R

1. Application below Exh.19 is allowed subject to costs of Rs.300/- (Rs.Three hundred) to defendants.
2. Plaintiff shall carry out amendment and shall file appropriate copy of amended plaint.
3. Plaintiff do fulfill necessary conditions.
4. Defendants to file additional W.S. within stipulated time.

Date:- 01.01.2020

Jt.Civil Judge J.D., Bhoom