

MHOS150007332019



ORDER BELOW EXH. 41

1) This is an application preferred by the original defendant for an amendment in counter-claim under Order 6 Rule 17 of the Code of Civil Procedure (hereinafter to be referred as the CPC). Perused the application and say filed thereon. Heard Learned Advocates for the respective parties at length.

2) It is contended on behalf of the original defendant that he claimed partition and declaration with regard to block no. 44 along with well which is situated on southern side, electric motor, electricity connection and pipeline which is on the well. It is further pleaded that the plaintiff has filed Exh. 30 stating that the original defendant has not properly valued the counterclaim and also has not paid sufficient court fees. Thus, he prayed to reject the counter-claim. In the aforesaid factual background, the Learned Counsel for the original defendant prayed to carry out amendment to correct the valuation and paid sufficient court fees. It is also contended that the aforesaid amendment is allowed, it neither changes nature of suit nor it cause any prejudice to the plaintiff. Thus, instant application is being preferred.

3) The plaintiff has vehemently opposed this application and it is submitted on his behalf that no document is placed on record by the defendant showing the valuation of the suit property is Rs. 8,73,430/-. Thus, it is prayed that the said application is liable to be rejected.

4) From the record it is seen that the plaintiff has filed application vide Exh. 30 wherein he himself claimed that the valuation of the subject matter of the suit is more than 10 lakhs. On the aforesaid application this Court directed the plaintiff and defendant to correct the valuation of the suit and counter-claim and appropriate court fees thereupon. Thus, in such circumstances, both, plaintiff and defendant are required to correct the valuation and pay sufficient court fees as per order passed below Exh. 30. It is to be noted in order to give effect to the order passed below Exh. 30, the original defendant is preferring this application. Moreover, there does not appear any substance in submission advanced on behalf of the plaintiff.

5) In the present case issues are yet to be framed and trial is yet to begin. The proposed amendment does not change the nature of suit in any manner. Therefore, in order to determine real controversy between the parties and to avoid multiplicity of proceedings the proposed amendment is necessary.

6) In light of the forgoing discussion and considering the facts and circumstances of this case, I proceed to pass the following order.

ORDER

- 1) Application is allowed.
- 2) The original defendant is directed to carry out the amendment on or before next date of hearing.

Date: 20/08/2022

Sd/-
(P. S. Thakare)
Jt. Civil Judge Junior Division,
Paranda

CERTIFICATE

I affirm that the contents of this P.D.F. File Judgment/Order are same, word to word, as per the original Judgment/Order.

Name of the Stenographer	Shri. V.N.Phurade
Name of Court	Shri. P. S. Thakare, Jt. C.J.J.D. and J.M.F.C., Paranda
Date of Dictation	20/08/2022
Judgment signed by the P.O. on	20/08/2022
Judgment/Order uploaded on	20/08/2022