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| IN THE COURT OF CIVIL JUDGE (JR. DN.) P.C.M.C. COURT AKURDI, PUNE. | |
| R.C.S. No. 12/2025 | CNR No. MHPU10-000012-2025 |
| <u>Jamil Choudhary & Ors.</u> | |
| -Vs- | |
| P.C.M.C. & Ors. | |

ORDER BELOW AMENDMENT APPLICATION.

(Passed on 06.02.2025)

This is an application filed by the plaintiffs under Order-6 Rule-17 of the Code of Civil Procedure, 1908 (For the sake of brevity hereinafter will be referred as “C.P.C.”) for amendment.

2. Counsel for plaintiffs has stated in his application and argued that, present suit is filed for declaration and permanent injunction and due to in advertence in the suit description in para no. 1 and 2 is required to be added as “village Chikhali, Taluka Haveli, Pune within the limits of Sub Registrar Haveli and limits of Pimpri Chinchwad Municipal Corporation”. If the application will be allowed then, the nature of suit will not be changed. Therefore, by way of this application, they prayed for amend in plaint.

3. On the other hand, Adv. for defendants has strongly opposed the application and filed say on the same application. They stated that, this application is not tenable and the intention of the plaintiff is to prolong the matter. Hence, they prayed for to reject the application with heavy costs.

4. Heard learned Adv. Shri. R. A. Singh for plaintiffs and learned Adv. Shri. M. G. Bhapkar for defendants at length. The following points arise for my consideration. My findings thereon are as follows with

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following reasons.

POINTS

FINDINGS.

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| 1. | Whether the proposed amendment is necessary for resolve the controversy between the parties? | ... | Affirmative. |
| 2. | What order ? | ... | As per final order. |

REASONS

5. **AS TO POINT NO.1 and 2 :**

Considering the material on record I have taken point no. 1 to 2 together, for discussion. Before going into the discussion I would like to mention here to O.6 R.17 of CPC.

O. 6 R. 17 of CPC Amendment of pleadings –

The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties:

Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.

6. Perused whole record. On going through the averments in the plaint, it seems that present suit is filed for declaration and permanent injunction. As per the contention of the plaintiffs, they realized that due to eye sight and in advertence the Village of suit property have not been mentioned in the plaint para no.1. Now, they wants to amend in the plaint para no. 1 and cured the mistakes. It is admitted facts that, yet trial has not been commenced.

7. Generally the Court taking into considering following aspect

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while allowing the amendment in pleadings:

- i) all amendments will be generally permissible when they are necessary for determination of real controversy in the suit.
- ii) The amendments should not be caused prejudiced to the other side which can not be compensation in terms of cause.
- lii) Introduction by amendment of inconsistent or contradictory allegations in negations of admitted position on facts of mutually destructive allegations of facts are also impermissible.

8. In the present case after perusing plaint along with documents then, it shows that, the Gat no., area, four boundaries have been enumerated but the name of village, Taluka not mentioned. But, while perusing the documents and overall contentions, then it reflects that, the suit property is concerned village Chikhali. It is also important that, the plaintiff should be given proper description for identification of property, specially when it is immovable property. It is also admitted facts that only summons served defendants, the written statement have not brought on record. Considering the facts and circumstances of this case and there is neither hurdle to the defendants nor change the nature of the suit. It seems that, for proper adjudication and to resolve the controversy between the parties, application deserves to be allowed subject to cost. Hence, I answer point no. 1 in the affirmative and for point no. 2, I proceed to pass following order.

ORDER

- 1) The application is hereby allowed subject to cost of Rs.500/- be paid to defendants.
- 2) Plaintiffs are permitted to amend in plaint para no. 1 and 2 & brought amended copy of the plaint on record within 14 days.

Dated: 06/02/2025.

(V. S. Damare)
Civil Judge Junior Division
(P.C.M.C. Court), Akurdi, Pune.

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CERTIFICATE

“I affirm that the contents of this P.D.F. file Order are same word for word as per original Order”.

Name of Stenographer :- P. B. Jadhav

Court Name :- Shri. V. S. Damare,
(J.M.F.C.) Civil and Criminal Court (P.C.M.C.),
Akurdi, Pune.

Date :- 06/02/2025

Order signed by
presiding officer on :- 06/02/2025

Order uploaded on :- 06/02/2025