

IN THE COURT OF CIVIL JUDGE (JR. DN.) P.C.M.C. COURT AKURDI, PUNE.	
R.C.S. No.16/2023	CNR No. MHPU10-000100-2023
Daniel M. Jones	
-Vs-	
P.C.M.C. & Ors.	

ORDER (Below Exh.48)
(Passed on 09.09.2024)

This is an application filed by the plaintiff under Order-6 Rule-17 of the Code of Civil Procedure, 1908 (For the sake of brevity hereinafter will recalled as "C.P.C.") for amendment in the name of defendant no. 11 in title clause of the suit.

2. Called say of defendants. Defendant no. 1 to 3, 17 and 18 have given their say behind the same application.

3. Counsel for plaintiff has stated in his application and argued that, present suit is filed for declaration and injunction against the defendants. After issuing of summons and bailiff report brought on record then the summons of defendant no.11 is returned with the remark of the name is not correct. Inadvertently, in the title clause the name of defendant no.11 is wrongly mentioned as a Prakash Sumatilal, in spite of his original name is Prashant Sumatilal. The said mistake is occurred as a clerical and typographical error, 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 the name of defendant no.11 in title clause.

4. On the other hand, learned counsel for defendant no. 1 to 3, 17 and 18 have strongly opposed the application. They submitted that plaintiff is not diligent and the reasons mentioned in the application are not looking bonafide. Hence he prayed for to reject the application.

5. Heard learned counsel Shri. P. V. Joshi for plaintiff and learned counsel Shri. M. G. Bhapkar for defendant no. 1 to 3, 17 and 18 at length. The following points arise for my consideration. My findings thereon are as follows with following reasons.

POINTS

FINDINGS.

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

R E A S O N S

6. AS TO POINT NO.1 and 2 :

Considering the material on record I have taken point no. 1 to 2 together, for discussion.

7. Perused whole record. On going through the averments in the plaint, it seems that present suit is filed for declaration and injunction. As per the contention of the plaintiff, after the bailiff report came on record then, they realized that due to eye sight and typographical error, the name of defendant no. 11, is wrongly mentioned in spite of Prashant Sumatilal. Now, they wants to amend in the title clause and cured the mistake. Therefore, in my view, there is

(3)

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. Hence, I answer point no. 1 in the affirmative and for point no. 2, I proceed to pass following order.

ORDER

- 1) The application (Exh.48) is hereby allowed.
- 2) Plaintiff is permitted to amend the name of defendant no. 11 as Prashant Sumatilal, in spite of Prakash Sumatilal in title clause, & brought amended copy of the plaint on record within 14 days.

Dated: 09/09/2024.

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

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 :- 09/09/2024

Order signed by
presiding officer on :- 09/09/2024

Order uploaded on :- 09/09/2024