

ORDER BELOW EXH.111 IN Spl.C.S. NO.129/2021

1. This application is filed by plaintiff for amendment of plaint under provisions of Order 6 Rule 17 of the Code of Civil Procedure. Plaintiff contended that the application at Exh.5 was allowed on 20-09-2022 and Issues framed on 11-11-2022. The present plaintiff had filed application before Metropolitan Magistrate Kurla for registration of a Birth and the said application was allowed. In view of these documents, plaintiff intends to add para 5A and 11A and 11B in the plaint. Hence, prayed that application be allowed.

2. Defendants no. 3 to 8 resisted this application and filed their reply at Exh.114. They contended that application is false and frivolous. After filing of the Written Statement, plaintiff has filed this application to fill up the lacunaes. No delay is explained. The order of Metropolitan Magistrate is not binding on the defendants. Hence, prayed that application be rejected.

3. Considering rival contentions of both the parties following points arise for my determination and I record my findings thereon for the reasons mentioned below.

No.	POINTS	FINDINGS
1	Whether application is liable to be allowed ?	... in the positive.
2	What Order ?	... As per order.

:: REASONS ::

POINT NO.1. :-

4. Heard learned Advocate for plaintiff. Advocate for defendant no.3 to 8 absent when called. This is a suit for declaration, cancellation of Lease deed, recovery as per section 31 of the Land Acquisition Act and for

perpetual injunction. In the present suit Issues are framed and the matter is posted for hearing. At this stage the plaintiffs have filed this application for proposed amendment. As per the order passed by Metropolitan Magistrate, Court No.52, Kurla, Mumbai, the birth of plaintiff was registered. Said order was passed on 29-09-2022. Present application is filed on 22-12-2022. Considering the order passed the Metropolitan Magistrate, Court No.52, Kurla, Mumbai and the proposed amendment, I am of the opinion that application is liable to be allowed. The proposed amendment will not change the nature of the suit nor any prejudice will be caused to the defendants. The defendants will get an opportunity to file additional W.S. with respect to the proposed amendment. Hence, in view of my above discussion I answer point no.1 in the positive and in answer to point no.2 I pass the following order.

:: ORDER ::

1. Application is allowed.
2. Plaintiff to carry out amendment and file amended plaint on or before next date.

Panvel,
Date : 01-09-2023.

(Nayomi P. Pawar)
Civil Judge, Senior Division Panvel.