


MHRG040045782016 	R.C.S. No. 778/2012 Smt. Gulab Balaram Bhagat and Others Vs Shri. Maruti Alya Patil and Others
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ORDER BELOW EXH.37

01. Perused application and say. Heard Ld. Advocate for both parties. This application is filed by plaintiffs under Order 6 Rule 17 of CPC for amendment in plaint. It is contended by plaintiffs that at the time of filing suit they obtained 7/12 extracts of suit properties from Talathi and one 7/12 extract of survey no. 335/1 in the name of defendants was provided by Talathi. They contended that depending on said 7/12 extract, they mentioned survey no. 335/1 in plaint but defendants took objection that said property is not in existence and therefore they again inquired with Talathi and came to know that said 7/12 extract was inadvertently given by Talathi by mentioning survey no. 335/1 instead of 338/1. Therefore plaintiffs want to delete survey no. 335/1 from the suit and therefore they filed this application for amendment.

02. Defendants filed their say at **Exh. 41** and strongly opposed application. They contended that they have taken objection in their written statement filed on 15/03/2013 and this application is filed by plaintiffs on 18/07/2014 i.e. after about one and half year. They contended that plaintiffs filed this application only to prolong the matter. Hence, they prayed for rejection of application.

03. Perusal of record shows that this suit is filed by plaintiffs for declaration, partition and possession of suit property. After

appearance of defendants they filed their written statement at **Exh. 26**. The fact that survey no. 335/1 is not in existence is admitted by the defendants. The plaintiffs contended that the mentioned survey no. 335/1 by believing the 7/12 extract issued by Talathi and after inquiry and confirmation from Talathi they came to know that it was wrongly issued by Talathi by mentioning survey no. 335/1 instead of 338/1. The plaint shows that survey no. 338/1 is already mentioned in suit properties. Therefore considering the aforesaid facts, as plaintiffs and defendants have no concern with survey no. 335/1, the proposed amendment of deleting said property from suit is necessary and bonafide and it will not change the nature of suit. However as contended by defendants they have taken objection in their written statement which was filed on 15/03/2013, and this application is filed by plaintiffs after much delay and therefore they are liable for penalty. Hence, I pass following order.

ORDER

1. The application is allowed subject to payment of cost Rs. 1000/- payable to TLSA Panvel.
2. The plaintiffs are directed to amend the plaint and delete survey no. 335/1 from suit property.
3. The plaintiffs are directed to amend the plaint within 14 days and to furnish the amended copy of plaint to all defendants.

Date : 10/03/2026
Place : Panvel

(R. Y. Khandare)
5th Joint Civil Judge; Sr. Div, Panvel.