

Regular Civil Suit No.44/2013

ORDER BELOW EXHIBIT 138

This application is filed by the plaintiff under Section 21 of Specific Relief Act, 1963 and under order 6 Rule 17 of the Code of Civil Procedure for amending the plaint.

02. The plaintiff has submitted that this suit is filed by the plaintiff for specific performance of registered agreement to sale dated 16/07/1983. Now the plaintiff in the present suit want to amend the plaint and want to claim alternative relief of compensation if the Court comes to conclusion that the plaintiff is not entitled for getting the relief of specific performance. Accordingly the plaintiff want to amend this plaint. The plaintiff has submitted that if defendants have acted on agreement to sale dated 16/07/1983 then the plaintiff institution can utilize the said land for specific purpose and some income from the same. But due to non compliance of terms of agreement, the plaintiff has suffered loss and accordingly the plaintiff is ready to pay the court fee stamp. The plaintiff has prayed that he may be permitted to amend the plaint as well as prayer of the suit. The plaintiff has prayed that the application be allowed.

03. Defendant No.30 has filed his say at Exh.142 and submitted that this application is filed by the plaintiff in

order to prolong the matter. From last 11 years, the matter is pending. The plaintiff has not stated reason for not amending the plaint previously or not adding prayer at the time of filing of the suit. If the plaintiff has permitted to amend this plaint, then it is going to change the nature of the suit. Hence, the application be rejected.

04. Perused the application and say. Considering nature of amendment, the plaintiff want to amend his plaint and want to add alternative prayer in prayer clause. Considering nature of amendment, it appears that it does not going to change the nature of the suit. The plaintiff only want to add alternative relief and accordingly want to amend the plaint. As per Section 21 of Specific Relief Act, provided that *“where the plaintiff has not claimed any such compensation in the plaint, the court shall, at any stage of the proceeding, allow him to amend the plaint on such terms as may be just, for including a claim for such compensation”*.

05. Section 21(5) of Specific Relief Act exclusively provides such amendment. From the record, it appears that proposed amendment is necessary to adjudicate the matter on merit. Considering above all facts, it appears that, the proposed amendment is necessary in the present suit and it does not going to change the nature of the suit. Hence, I proceed to pass the following order.

ORDER

1. The application is allowed subject to payment of cost of Rs.2,000/- (Rs. Two thousand) to be paid to defendants.
2. The plaintiff is permitted to carry out the necessary amendment within 14 days without fail.

Place – Karjat
Date - 05/08/2025

(Smt. A. S. Wadkar)
Civil Judge, J.D., Karjat,
District - Raigad