ORDER BELOW EXH. 71 IN RCS. 46/2010

This application is preferred by the plaintiff under Order 6 Rule 17 of the Code of Civil Procedure.

2. According to the plaintiff he has filed the suit for perpetual injunction and removal of encroachment. He had sought appointment of court commissioner, who has filed his report alongwith map in the present suit. According to the plaintiff the commissioner has shown the extent of the alleged encroachment and he intends to include the description of the extent as shown by the commissioner, in his plaint, hence the present application.

3. The defendant filed reply to the application and strongly objected the application.

4. Heard advocate of both the sides. Perused the record. Admittedly the suit is filed for perpetual injunction and removal of encroachment. The proposed amendment, in my opinion is nothing but a better clarification to the pleadings. It will not change the nature of the suit or cause any prejudice to the defendants. Although issues Exh. 39 are framed in the suit on 28/03/2013, the evidence is yet to begin,

hence there is no bar of the proviso to Order 6 Rule 17 of the Code of Civil Procedure. I find the application to be permissible in result following order to be passed:

O R D E R

i. The application is allowed.

ii. The plaintiff is permitted to carry out the proposed amendment within prescribed time limit.

iii The plaintiff is also directed to provide the amended plaint and copy thereof, on or before next date.

iv Failure to comply shall render further orders.

Date : 31/10/2017
Roha.

(C.U.Shipkule)
Jt. Civil Judge Jr. Division, Roha