

MHRG110000122024



ORDER BELOW EXH. 27 and 29 IN R. C. S. NO. 04/2024
(Passed on 20.03.2025)

These applications filed by the plaintiffs under Order 6 Rule 17 of the Code of Civil Procedure for amendment in the plaint and in the temporary injunction application at Exh. 5.

2. The plaintiffs submitted that, during the pendency of the suit, the defendant on 06.05.2024 gifted suit property in the favious of Pratap Manohar Patil. The defendant created third party interest in the suit property. Therefore, the plaintiffs want to add Pratap Manohar Patil as a defendant No. 2 in the present suit and amend prayer clause and amend pleading regarding said prayer. Therefore, the plaintiffs pray to allow the applications for amendment in the plaint and in the temporary injunction application filed at Exh. 5.

3. The defendant filed say on both applications and stated that it strongly opposed to the applications.

4. Considering the contentions in the applications and submissions of rival parties, following points arise for my determination which are produced along-with my findings thereon, for the reasons stated as under :

Sr.No.	POINTS	FINDINGS
1.	Whether the plaintiffs prove that,	

proposed amendment is necessary for
the purpose of determining the real ...Yes
question is controversy between the
parties ?

2. Whether the proposed amendment will ...No
change the nature of suit?

3. What order ?As per final
order.

REASONS

AS TO POINT NOS. 1 AND 2 :-

5. As these points are closely interlinked, it shall be more
appropriate to discuss them together.

6. At the outset, it is worthwhile to discuss the provisions of
Order VI Rule 17 of the code.

Order VI Rule 17 : Amendment of Pleadings : The Court
may at any stage of the proceedings allow either party to
alter or amend his pleadings in such manner and on such
terms as may be just, and all such amendments shall be
made as may be necessary for the purpose of determining
the real questions in controversy between the parties:

Provided that no application for amendment shall be
allowed after the trial has commenced, unless the Court
comes to the conclusion that in spite of due diligence, the
party could not have raised the matter before the

commencement of trial.

7. Above said provisions gives power to the civil court to allow parties to alter, amend or modify the pleadings at any stage of proceedings. But, the court will allow amendment only if this amendment is necessary to determine the controversy between the parties. The purpose of this provision is to promote ends of justice and not to defeat the law.

8. Heard both side, perused the record. It is seen that, the suit filed for the declaration and perpetual injunction. Contention of applications supported by affidavits. Now in the present matter is pending for hearing on temporary injunction at Exh. 5. On perusal of gift deed No. 317/2024, dated 06.05.2024, it appears that, the defendant has gifted the suit property to Pratap Manohar Patil. On perusal on record, it appears that, the present suit filed on 15.12.2023. It is clear that, after filing the suit, transaction took place i. e. the suit property is gifted by defendant in the favour of Pratap Manohar Patil.

9. In the light of aforesaid discussion and considering documents on record, it appears that, reasons are bonafide. I find that, no prejudice will be caused to the defendant, if proposed amendment is allowed, the nature of suit will not change. It is appears that, the proposed amendment is essential to decided rights of the parties, and the controversy between the parties, and avoid multiplicity of proceeding. I answer point No.1 in the positive and point No. 2 in negative accordingly.

AS TO POINT NO. 3 :-

10. Hence, on the backdrop of above discussion and in answer to this point, I pass the following order :

ORDER

1. Applications are hereby allowed.
2. The plaintiffs shall carried out proposed amendment on or before next date.
3. The plaintiffs are direct to pay requisite court fee.

Mangaon,
Date : 20.03.2025

(G. C. Fulzalke)
Civil Judge, Junior Division,
Mangaon, Dist. Raigad.