

MHRG110009412021



ORDER BELOW EXH. 44 IN R. C. S. NO. 78/2021
(Passed on 29.11.2023)

This is an application filed by plaintiffs for amendment in plaint. The plaintiff has filed his say and submitted that suitable order.

2. Heard learned counsel for the defendant and the plaintiff. I duly considered submission made by learned counsel for both sides and also gone through the record. From it following point arose for my determination on which I have recorded my findings thereon as below ;

| <u>Sr. No.</u> | <u>POINTS</u> | <u>FINDINGS</u> |
|-----------------------|--|------------------------|
| 1. | Whether proposed amendment is necessary to decide controversy in between parties ? | ...Yes. |
| 2. | What order? | Application is allowed |

REASONS

As to point No. 1

4. The suit is filed for declaration and perpetual injunction. Through this application, the plaintiff sought amendment in plaint on the ground of typing mistake. Learned counsel of the plaintiff submitted that, due to type mistakes and due to oversight in the para 'Survey No. 96/33' is written instead of "Survey No. 96/3" in the plaint. The same is required to correct in plaint.

5. Perused the record. It appears that, there is typographical mistake regarding survey Number. It is appears that, the proposed amendment is essential to decided the controversy between the parties. The proposed amendment also appears from typographical error has been occurred while drafting plaint. However, error appears to be bona-fide and not intentional. I find that no prejudice will be caused to the defendant. If proposed amendment is allowed as nature of the suit will not change. In such circumstance, it is just and proper to allow application. It is necessary the word "Survey No. 96/33" delete by add the word "Survey No. 96/3" in the plaint. If, the application is allowed then it will cause no prejudice to the defendants, it is helpful in adjudication of matter on merit and to avoid multiplicity in the proceeding. Hence, in the interest of the justice, I answer point No.1 in the positive.

As to point No. 2

6. In the light of above said observation, I am of opinion that, the application is deserved to be allowed. Hence, I pass the following order.

ORDER

1. Application is hereby allowed.
2. The plaintiffs are directed to make necessary amendment on or before next date.

Mangaon,
Date : 29.11.2023

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