



ORDER BELOW EXH. 46

1) By virtue of this application under Order VI Rule 17 of Code of Civil Procedure, 1908, plaintiff has sought amendment in the plaint as mentioned in Para no. 3 & 4 below.

2) Plaintiff has filed the present suit for partition. Suit is proceed Ex-parte against defendant no.1. Defendant no.2 filed written statement below Exh.32 and resisted the claim of plaintiff. Defendant no.3 filed written statement below Exh.35 and admitted the claim of plaintiff. Suit is proceeded without written statement against Defendant no.4. When the suit was listed for issues, plaintiff filed present application.

3) It is submitted that, plaintiff has described suit properties in Para no.2 of the plaint. However, while describing the house properties and shop, plaintiff has not mention the Grampanchayat name within whose jurisdiction the said properties are situated. By way of amendment, plaintiff therefore want to incorporate following sentences in the description of house properties as follows.

A) In the description of house property no.68, plaintiff's want to insert the sentence, गुपु ग्रामपंचायत वांजळे, ता. श्रीवर्धन, जि. रायगड येथील

B) In the description of house property no.69, plaintiff's want to insert the sentence, ग्रुप ग्रामपंचायत वांजळे, ता. श्रीवर्धन, जि. रायगड येथील

C) In the description of shop property no.1031/2, plaintiff's want to insert the sentence, ग्रुप ग्रामपंचायत बोर्लीपंचतन मधील.

4) It is further submitted that, in Para no.2, in the line number 5th & 6th, inadvertently, plaintiff has described a property i.e. मौजे बोर्लीपंचतन येथील गट क्र.१०७ क्षेत्र ०.०८.० आर्स आकार ०.२५ पैसे. However, the said property is nowhere concerned with the suit parties. Plaintiff therefore prayed to delete the said contents.

5) It is further submitted that, the proposed amendment will assist the court to determine real controversy between the parties. The proposed amendment will aid the court to decide the present suit on merits. The said amendment if allowed will cause no harm whatsoever to the defendants as trail in the present suit has not been commenced. The proposed amendment will not change the nature of the suit. Thus, on the above reasons, learned Counsel appearing for the plaintiff submitted to allow the application.

6) Defendants filed say of the overleaf of the present application thereby submitted to pass necessary orders.

7) In the light of the averments in the application and contentions in the reply, the material on record and the rival

submissions at the bar, the following points arise for my consideration. I have recorded my findings against each of them for the reasons to follow:

<u>Sr. No.</u>	<u>Points</u>	<u>Findings</u>
1)	Whether the application for amendment of the plaint deserves to be allowed ?	Yes
2)	What Order ?	Application is allowed

As to point no.1 and 2 :-

8) It is the case of plaintiff that, while describing the house properties and shop property, name of Grampanchayat within whose jurisdiction the said properties are situated were remained to be pleaded. By way of present amendment application, plaintiff wants to plead the name of said Grampanchayat. Further, plaintiff wants to delete the content with respect to a landed property which has been inadvertently pleaded. Defendants did not objected the same. In my opinion, what is sought to be added in the plaint is nothing but a clarification concerning suit properties. In facts and circumstances of the case, allowing the amendment would assist the court in determining the real question in controversy between the parties, completely and effectually. As the plaintiff is merely clarifying the suit properties, I am of the opinion that, permitting the same will indeed not change the nature of the suit. So far, the question of prejudice to defendants is concern, according to me, the defendants will not be prejudiced if the said

:: 4 ::

Regular Civil Suit No. 39/2019
CNR No.MHRG130003072019
Order Below Exh.46

amendment is allowed as the amendment is sought before commencement of trail.

9) Therefore, considering the afore said reasons plaintiff is permitted to carry out amendment as mention in Para no.3 & 4 above. Accordingly, in the afore said background, point no.1 is answered in affirmative and in answer to point no. 2 following order is passed.

ORDER

- 1) Application is allowed.
- 2) Plaintiff shall carry out amendment with respect to the averments as mention in Para no.3 & 4 above as claimed.
- 3) Cost in cause.
- 4) Plaintiff shall carry out the amendment within 14 days from today.

Place : Shrivardhan.
Date: 06/02/2026.

(S. K. Shaikh)
Civil Judge Junior Division,
Shrivardhan.