

ORDER BELOW EXH.24 IN R.C.S. NO.71/2025

The present application is filed by the plaintiff for amendment of plaint as per provisions Order VI Rule 17 of the Code of Civil Procedure, 1908.

02. The plaintiff vide this application contends that, present suit is filed by the plaintiff against the defendant for the partition, separate possession and for declaration. Plaintiffs seeks to correct year of death of his father and mother vide this application. Hence plaintiff may be permitted to amend the plaint to that effect. Defendant filed their say overleaf of the application and strongly opposed the application on the ground that, plaintiff was aware of year of death of his father and mother. The present application filed by plaintiff is after thought. Plaintiff has not produced on record any documentary evidence in respect of which amendment is sought. Hence, defendant prayed to reject the application.

03. From the consideration of the facts and contents of the application following points arises for my determination to which I, have recorded my findings for reason stated below-

S.N.	Points for determination	Findings
1.	Whether proposed amendment is necessary to determine real controversy between the parties ?	Yes.
2.	What order ?	Application is allowed.

-:: REASONS ::-

AS TO POINT NO.1 TO 2 -

04. Heard the Ld. Advocate Shri.Wadkar for the plaintiff and Ld. Advocate Shri.Tawade for defendants.

05. Perused the application, say filed by defendants and record of the case. The present suit is filed for by the plaintiff against the defendant for partition, separate possession and declaration. The plaintiff vide this application seeks to bring on correct year of death of father and mother of the plaintiff. As per settled principle of law merit of amendment should not taken into consideration while deciding the amendment application. It is useful to refer Order VI Rule 17 which is as under:-

“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.”

06. It is clear that parties to the suit are permitted to bring forward amendment of their pleadings at any stage of the proceeding for the purpose of determining the real question in controversy between them. The Courts have to be liberal in accepting the same, if the same is made prior to the

commencement of the trial. If such application is made after the commencement of the trial, in that event, the Court has to arrive at a conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.

07. At the stage it is relevant to note case law Hon'ble Apex Court in case of ***Chinnapareddy Subba Reddy Vs. Chinnapareddy Srinu and 2 others (AIR 2002 SC 3369)*** In paragraph 7, The Hon'ble Supreme Court held as under:

"In our opinion, the basic structure of the suit is not altered by the proposed amendment. What is sought to be changed is the nature of relief sought for by the plaintiff. In the opinion of the trial Court it was open to the plaintiff to file a fresh suit and that is one of the reasons which has reviled with the trial Court and with the High Court in refusing the prayer for amendment and also in dismissing the plaintiff's revision. We fail to understand, if it is permissible for the plaintiff to file an independent suit, why the same relief which could be prayed for in a new suit cannot be permitted to be incorporated in the pending suit. In the facts and circumstances of the present case, allowing the amendment would curtail multiplicity of legal proceedings."

08. Thus, the proposed amendment will not by itself change the nature of suit. Amendment is sought for correction of typographical mistake. Trial of the suit is yet to commence. In these circumstances application needs to be allowed. Hence, the following order

ORDER

1. Application Exh.24 is allowed subject to costs of Rs.300/- to be paid defendants on or before next date.
2. Plaintiff is directed to carry out the amendment within 14 days from date of this order and shall furnish the copies of amended plaint.

Place - Chiplun
Date - 20.04.2026

(K.A. Powar)
C.J.J.D., Chiplun.

CERTIFICATE

I affirm that the contents of this PDF file Judgment/order are same, word to word, as per the original Judgment/order.

Name of Stenographer	Mr. S. J. Thorat
Name of Court	C.J.J.D. & J.M.F.C., Chiplun.
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