



Order Below Exh. 72 in Reg. Civil Suit No. 23/2013

(CNR no. MHRT080002662013)

1. The plaintiff has filed this application under Order 6 Rule 17 of the Code of Civil Procedure for amendment of the plaint. It is submitted by the plaintiff that in plaint, para no. 2 he mentioned that, contract related property is situated in survey no. 137 hissa no. 15 but actually the contract related property is situated in survey no. 38 hissa no. 7. Due to old age plaintiff nos. 1 and 2 have no proper knowledge about suit properties. They got knowledge of contract related property number when the plaintiff no. 3 is added in the present suit. Hence, the plaintiff seeks amendment on this point. Therefore, he prayed for allowing the application.

2) The defendant opposed the application by contending that the application and the suit is false. The application is filed after hearing of the suit is started. Hence, the application deserves to be dismissed with heavy costs.

3) Considering the rival contentions of both the parties following points arise for my determination to which I record my findings thereon for reasons to follow :

Points	Findings
1. Whether the application of the plaintiff for amendment of the plaint deserves to be allowed?	In the affirmative.
2. What order?	The application is allowed.

REASONS

4) Heard learned advocate for the plaintiff and defendant.

5) As per Order 6 Rule 17 of Civil Procedure Code the Court can amend the pleadings at any stage of the suit. The proviso to the said rule provides that where the hearing of the suit has been started in that situation the amendment to the pleadings shall not be granted unless exceptional circumstances are shown or it was shown that inspite of due diligences the party could not have filed the application for the amendment.

6) In present suit this application is filed after closing of evidence of both sides. Therefore, the present application is governed by proviso of Order 6 Rule 17 of the Code of Civil Procedure. As per proviso the amendment to the pleadings shall not be granted unless exceptional circumstances are shown or it was shown that in spite of due diligences the party could not have filed the application for the amendment. In the present application the plaintiff has given specific reason for delay. He stated that, he got knowledge of contract related property number when the plaintiff no. 3 is added in the present suit. After considering this reason it is clear that, the plaintiff has not purposely delayed the suit. The most important thing is that, the amendment which is sought by the plaintiff is on technical ground. It will not change the position of property and nature of the suit. Therefore, I pass following order-

ORDER

1) The application is allowed.

2) The plaintiff shall carry out the proposed amendment within 14 days from the date of this order.

Date- 10/03/2021

P.R.Sabnis
C.J.J.D.Deorukh

: C E R T I F I C A T E : -

Judgment/order in (Order below Exh.72 in R.C.S. No. 23/2013)

I affirm that the contents of this Pdf file order are same words as per original order.

Name of Stenographer :- S. S. Thaware (Jr. Clerk)

Court Name :- The Court of Civil Judge J.D. and
Judicial Magistrate F.C., Deorukh

Date of decision :- 10/03/2021

Order signed by PO. on 10/03/2021

Order digitally signed by :- 10/03/2021
PO. on

Order uploaded on :- 10/03/2021