

Order Below Exh. 49

CNR No. MHRT08-000285-2018

1) The defendant has filed this application under Order 6 Rule 17 of the Code of Civil Procedure for amendment of written statement. It is submitted by the defendant that the suit is filed for the permanent injunction. He further submitted that during pending of suit plaintiff has filed zerox copy of will deed dated 19/07/2019. Therefore, proposed amendment is necessary to bring on record the actual facts in respect of alleged will deed. Hence, he seeks permission for amendment in written statement as more precisely mentioned in application.

2) The plaintiff has filed say and submitted that, the application is false and frivolous and it is against procedure of law. The present application is filed by defendant with ulterior motive therefore proposed amendment is not required. Hence, it is prayed for reject the application.

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 defendant for amendment of the written statement deserves to be	In the affirmative.

allowed ?	
2. What order?	The application is allowed.

REASONS

4) Heard learned advocate Shri. U.M. Bhatwadekar for the plaintiff and learned advocate Shri. V.V. Pawaskar for the 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 in spite of due diligences the party could not have filed the application for the amendment.

6) The hearing of the suit is yet to be started, therefore the present application is governed by Order 6 Rule 17 of the Code of Civil Procedure. The amendment which is sought by the defendant is in respect will deed which is produced by plaintiff. The proposed amendment is necessary for the purpose of determining the real question in controversy between the parties. The proposed amendment does not change nature of the suit and deserves to be allowed. Hence, I pass following order-

ORDER

1) Application is allowed.

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

3) Cost on cause.

Date- 04.02.2019

(P.V. Patil)
Jt. C.J.J.D.Deorukh

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

Judgment/order in (Order below **Exh.49** in RCS No.37/2018)

I affirm that the contents of this pdf file order are same word as per original order.

Name of Stenographer	:- V.Y. Bhatkar (Jr. Clerk)
Court Name	:- The Court of Joint Civil Judge (J.D.) and Judicial Magistrate F.C., Deorukh
Date of decision	:- 04/2/2020
Judgment signed by PO. on	:- 04/2/2020
Judgment uploaded on	:- 04/2/2020