



CNR No. MHSI070000152011
Order passed below Exh. No. 142
in R.C.S. No. 04/2011

The present application has been filed by the plaintiff under Order VI Rule 17 of the Code of Civil Procedure.

2. It is contended that an earlier application for amendment was filed at Exh.1 22. The said application was allowed, and the amendment was carried out. However, in paragraph 1(A) of the plaint, there is a typographical mistake. It was wrongly stated that Sonu Raoji Mubarkar and Dhondi Raoji Mubarkar were two sons. In fact, the correct position is that Dhondi Raghav Mubarkar was the only son. Therefore, the present amendment is sought to correct the said mistake. It is contended that the proposed amendment will not change the nature of the suit. It will bring clarity to the pleadings. It will not cause any prejudice to the defendants. The proposed amendment is necessary for the proper decision of the case. Hence, the plaintiff has prayed that the application be allowed.

3. The application has been resisted by the defendants by filing their say at Exh. 143. It is contended that the present application is false and frivolous. It is contended that it is not permissible for the plaintiff to seek amendment of the plaint on the basis of the written statement. It is contended that the plaintiff must conduct the suit on its own merits and that the written statement cannot be a cause for seeking amendment. It is further contended that the proposed amendment is inconsistent

with the earlier pleadings. Therefore, the defendants have prayed for rejection of the application.

4. I have heard both sides. Perused the record.

5. The present suit has been filed by the plaintiff for declaration and injunction, and in the alternative for recovery of possession and for partition and separate possession. By way of the proposed amendment, the plaintiff seeks to delete a sentence from paragraph 1(B) to the effect that Sonu Raoji Mubarkar and Dhondi Raoji Mubarkar were two sons. In place of that sentence, the plaintiff seeks to state that Dhondi Raghav Mubarkar was the only son. The proposed amendment does not change the nature of the suit. It will bring clarity to the pleadings of the plaintiff. It is necessary for deciding the real controversy between the parties. It is a settled principle of law that at the stage of deciding an amendment application, the merits of the amendment cannot be gone into. The amendment will also avoid multiplicity of proceedings. The inconvenience, if any, caused to the defendants can be compensated by costs. Therefore, the application deserves to be allowed. Hence, the following order is passed:

ORDER	
1	The application at Exh. 142 is allowed, subject to payment of costs of ₹1,000/- by the plaintiff to the defendants on or before the next date.

2.	On payment of costs, the plaintiff shall carry out the amendment as prayed for. The plaintiff shall supply a copy of the amended plaint to the defendants free of cost.
	(Pronounced and dictated in open Court.)

Sd/-

Place: Malvan
Date: 21/01/2026

(M.K. Fakh) Civil Judge (J.D.), Malvan.