

**ORDER BELOW EXH. 79 IN REGULAR CIVIL SUIT NO. 14/2003**

This is an application filed under Order VI Rule 17 of the Code of Civil Procedure, 1908 seeking amendment in the written statement. This application is strongly resisted by plaintiff contending that the application is filed after commencement of trial and is hit by proviso to Order VI Rule 17 of the Code of Civil Procedure, 1908 and it is only intending to delay the trial. Moreover the proposed amendment in written statement is not necessary for adjudicating the dispute between the parties. Heard both sides.

02. Perused the record. The suit is for declaration and consequential injunction. The minute perusal of the proposed amendment reveals that it is explanatory in nature. It appears that the defendants have already pleaded in Para No. 11 of the written statement that the plaintiff has not joint all the necessary parties to the suit, hence suit is not maintainable. Now the defendants want to state the names of the persons whose names find place in the revenue record of the suit property. Admittedly, the trial of the suit has commenced and the application is filed thereafter. However it needs to be mentioned that the proposed amendment is sought to be made in the written statement and not in the plaint. In catena of judgments Hon'ble Apex Court has held that Court should be liberal in allowing amendment in written statement. That apart as already observed the proposed amendment is only explanatory in nature as it is intended to disclose the names of the persons whose names are mentioned in the revenue record of the suit property. The proposed amendment will not change the very nature of the suit and pleadings there in as defendants have already come with a case regarding non joinder of necessary parties. Therefore the said fact is to the notice of the plaintiff since the date of filing of written statement by the defendants. Therefore no prejudice will be caused to the plaintiff if the proposed amendment is allowed. Hence considering entire facts of the case and argument of both parties, application needs to be allowed. Therefore I

proceed to pass following order

**Order**

Application Exh. 79 is allowed. Defendant Nos. 1 to 3 are directed to carry out proposed amendment in the written statement within 14 days from this order.

Sd/-

(P.K.Nardele.)

Civil Judge, Jr. Dn. Malvan.

Date : 15/06/2016