



**ORDER BELOW I.A.No.1/2019 (EXHIBIT 63) IN RCS
NO. 51/2013**

(Passed on 21/01/2020)

Heard the learned advocates for both the sides.
Perused the application and the say.

[2] Defendant No.1 is seeking amendment in the written statement to the extent that the present description of suit property is correct, but the old description is not admitted to him. The plaintiff has strongly resisted the application contending inter alia that the defendant No.1 cannot be permitted to withdraw the specific admission.

[3] On perusal of the written statement of defendant No.1, it becomes clear that in para 3 he has specifically admitted that the description of the suit property is correct. Now he is attempting to bifurcate his pleading by proposing to amend it and stating that the old description of suit property given by the plaintiff is incorrect.

[4] The learned advocate for defendant No.1 relied on the decision of Hon'ble Supreme Court in **Chakreshwari Construction Pvt. Ltd. Vs. Manohar Lal 2017 (5) MhLJ 195**. In this case the Hon'ble Apex Court has held that the parties are permitted to amend their pleadings at any stage and even during appellate stage with the permission of Court provided the amendment is bonafide, necessary to decide the rights of parties and relevant.

[5] On the other hand the learned advocate for the plaintiff

relied on the judgment of Hon'ble Bombay High Court in **Union Bank of India Vs. Kokila Nitish Kotak and Ors 1999 (2) MhLJ 370**. In this case it is observed by the Hon'ble Bombay High Court that though a defendant may be permitted to take inconsistent pleas, he cannot be permitted to displace the plaintiff completely from the admissions made by him in the written statement.

[6] Upon considering the above judgments relied by both sides and considering the facts of the present case, I am of the view that the amendment sought by defendant No.1 is not bonafide as it will amount to withdrawal of his admission. It will cause prejudice to the plaintiff. In my view this cannot be allowed to be done in view of the settled principles of law relating to amendment of the pleadings. The defendant cannot be permitted to withdraw any admission in the pleading which would prejudice the plaintiff. Allowing the present amendment will certainly place additional burden on the plaintiff to prove the description of the suit property. Hence, in my view the judgment relied upon by the learned advocate for the plaintiff is clearly applicable to facts of present case.

[7] In view of the above discussion the application fails and is liable to be rejected. Hence, the order

ORDER

The application is rejected.

Date : 21/01/2020
Place : Malvan.

Bhanupratap Chouhan
Civil Judge Junior Division

RCS No. 51/2013
CNR NO-MHSI-07-0001172013

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"CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL
SIGNED ORDER/JUDGMENT."

Chandrakala Vasant Chavan
NAME OF STENOGRAPHER

Name of the PO	Shri. Bhanupratap Chouhan
Date of pronouncement	21/01/2020
Order signed by PO on	21/01/2020
Order uploaded on	23/01/2020