

ORDER BELOW EXH.106 IN RCS No.118/2011

(Ramchandra Pawar-Asulekar, Etc V/s Parvati Pawar, Etc.)

[CNR-MHSN050005302011]

1. This is an application preferred by Plaintiff for seeking amendment in the suit under Order VI Rule 17 of the Code of Civil Procedure.

2. The Plaintiff submits that the instant suit is for partition and possession. The Plaintiff has mentioned new as well as old gat number and survey number of the suit properties. However, the suit properties are now given gat numbers after consolidation scheme. The Plaintiff wants to bring this fact before the Court for proper identification of the properties. Therefore the Plaintiff is praying to carry out the amendment in para 5 of the plaint. According to the Plaintiff, for the proper adjudication of the matter he shall be allowed to carry out the amendment as prayed by him. He further submits that the alleged amendment is very crucial for deciding this suit. Moreover, the proposed amendment is sought only for explanation purpose and it will not change the nature of the suit.

3. The Defendant No.22 objected the application by filing say on Exh.110. He submit that the application is not maintainable as it is filed just to fill up the lacunas. The proposed amendment cannot be allowed as no question of change in the property number arises. Further, the Plaintiff has not explained as to why he is carrying out the proposed amendment after the delay of 8 years from the date of suit. It was further contended that, the proposed amendment will change the nature of the suit. Hence, the application deserves to be rejected.

4. Heard the rival submission of both the learned Advocates. The learned Advocate for the Defendant No.22 had submitted with a degree of vehemence that a suit cannot be amended if the trial is commenced. On this aspect, first of all, I need to take on the promptitude of Plaintiff to file this application. For this purpose it will be profitable for me to reproduce Order VI Rule 17 of the Code.

***R.17 : Amendment of pleadings :** The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties: Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.*

5. It is pertinent to note that, the Defendant No.22 is not disputing the proposed amendment as false or fake. It appears that proposed amendment is in the nature of clarification to the earlier pleading. By way of proposed amendment the Plaintiff wants to provide details of the sale transactions with regard to the suit properties. It will not change the nature of suit, neither it will cause prejudice to Defendant No.22. Proposed amendment being crucial and necessary for proper adjudication of the matter same, deserves to be allowed. Hence, I pass the following order :

ORDER

1. Application is allowed on cost of Rs.1000/- to the Defendants.
2. Plaintiff shall carry out the amendment and supply the amended copies on or before 01/04/2022.

(Dictated and pronounced in open Court.)

Sd/-****

Islampur.
Date : 19/03/2022.

(Shailja O. Pandey)
Jt. Civil Judge, (J.D.), Islampur.

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

I affirm that the contents of this P.D.F. file, order are same word to word, as per the original Order.

Name of Stenographer	:- Sagar Anil Kate
Court Name	:- Jt. Civil Court, (J.D.), Islampur.
Date of decision	:- 19/03/2022
Order signed by PO. on	:- 21/03/2022
Order uploaded on	:- 22/03/2022