

MHSN090007632020



Order below Exh.17 in R.C.S.No.65/2020

[Vilas Rajaram Kolekar v/s. Vasant Nivrutti Kolekar & Ors.]

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

2. By filing present application it is submitted by the plaintiffs that, he has filed present suit for declaration of his right at to preemption and for perpetual injunction. Wherein at the time of filing suit he has mentioned the suit property in para no.1a and no.1B as gat numbers instead of survey numbers. The said mistake is typographical mistake. Therefore, he wants to amend the plaint. It is further submitted that the proposed amendment is formal in nature and it will not change the nature of the suit. Therefore, it is prayed that the application may be allowed.

3. The Ld. Advocate for the defendant no.2 filed his say and denied the contents of the application. It is submitted that the plaintiff has not shown his due diligence in filing the present application. If the present application is allowed it may change the nature of suit. Therefore, application may be rejected.

4. Heard both sides. Perused record. After perusal of record it is seen that the plaintiff has filed present suit for declaration as to his right of preemption and for perpetual injunction. It is the contention of the plaintiff that while drafting

the plaint he has mentioned the suit properties as gat numbers instead of survey numbers. The plaintiff has filed on record 7/12 extracts of the suit properties and copy of sale-deed dated 23.01.2020 which shows that the suit properties are survey numbers. It is seen that the proposed amendment will not change the nature of the suit. Therefore, I am of the opinion that it will be just and proper to allow the present application. While allowing the present application it is to be taken into consideration that the suit is instituted in the year 2020 and now, the plaintiff, after the three years has filed present application. The conduct of the plaintiff has to be taken into consideration while allowing the present application. Hence, considering the contents of the application and conduct of the plaintiff, I proceed to pass following order.

ORDER

1. Application is allowed subject to costs of Rs.100/- (Rs.One Hundred).
2. Plaintiff to carry out necessary amendment and to furnish the copy of amended plaint on next date.
3. Amount of costs be credited to the Government.

TASGAON.
Date : 21.03.2023

(Omprakash M.Mali)
Civil Judge Jr.Dn.,
TASGAON.

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

Name of the Stenographer : U.P.Patil
Court : Civil Judge Jr.Dn. and
Judicial Magistrate F.C.,
Tasgaon.
Date : 21.03.2023
Order signed by the Presiding : 21.03.2023
officer on
Order uploaded on : 21.03.2023