

MHSN110002292009



ORDER BELOW EXHIBIT 177
IN RCS NO. 39/2009
(Baban Nasale Vs. Shankar Nasale)

1. This is an application filed by the plaintiff under order 6 rule 17 of Code of Civil Procedure.
2. It is the contention of the plaintiff that, the four boundaries mentioned in the Gat No. 254 on the southern side, it is inadvertently written as Gat no. 256. It may be correct as 258 and on the eastern side of Gat no. 343 is inadvertently written as 354 it may be corrected as 254.
3. further it is contended that, Para 3 in line no. 2 after the word eastern side Gat no. 254 and on the eastern side of that Gat this contentions may be added and after Gat no. 255 (and Gat no. 342, 343 be added) in line no. 3 on the western side these words be added and in para 5, 5th line from bottom instead of 15 it may correct as 14 and instead of 16 it can be corrected as 15 and after mutation entry no. 1580 it be written as 1581.
4. These are the typing mistake at the time of filing of the suit. It will not change the nature of suit. Hence, prayed to allow the application.

5. Defendant has filed say overleaf the application and resisted the application. The defendant have denied all the contentions raised in the application. The temporary injunction application of plaintiff is decided on merits on the facts mentioned in the exhibit 1. The proposed amendment is in regard of four boundaries, it will change the nature of the suit. Defendant has taken objection in their written statement. Hence, plaintiff cannot make amendment in the suit. The plaintiff would have sought amendment after filing suit. Hence, proposed amendment is not within limitation. Hence, prayed to reject the application.

6. Heard both the Advocates. I have gone through the contentions in the application which are supported by an affidavit. So far as, the contentions about proposed amendment mentioned para 2 is concerned they are already on record on exhibit 1 as the plaintiff is contending. It is pertinent to note here that, the plaintiff has wrongly mentioned the proposed amendment mentioned in para 2 in the copy amended plaint. Hence, I do not find any ground to allow the proposed amendment mentioned in para 2.

7. So far as, proposed amendment mentioned in para 3, 4 is concerned probability of typing mistake cannot ruled out at the time of filing the suit. The plaintiff has not file yet his affidavit examination in chief. Considering the proposed amendment, no prejudice would be cause to the defendant and

it will not change the nature of the suit. The proposed amendment is certainly help the court to adjudicate the matter on merits. Hence, I proceed to pass following order.

ORDER

1. The application is partly allowed to the extent of para 3, 4 and 5.
2. Plaintiff is permitted to carry out the amendment as mentioned in the application para 3 to 5 only on next date.
3. Plaintiff shall file amended plaint on next date.
4. Cost in cause.

Date: 29/03/2025.

(R.B.Kulkarni)
Jt. Civil Judge Jr. Dn., Atpadi.

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R.C.S. No.39/2009
Exhibit No.-177

Certificate

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

Name of the Stenographer - A.R. Jadhav
Court - Jt. CJJD and JMFC, Atpadi.
Date - 29/03/2025
Order signed by the
Presiding Officer on - 29/03/2025
Order uploaded on - 29/03/2025