



Order below Exhibit 59 in regular civil suit number 136
of 2020

This is an application on behalf of the defendant number 3 to 5 inter alia praying for amendment in the written statement. It is their contention that the suit property as contended by the plaintiff is never in existence. However, the plaintiffs are praying for partition and declaration about such property. The defendants had purchased certain land out of gat number 3746/B by different sale deeds. They claim to be in its possession on its basis. They have started petrol pump, beer bar that too 40 years back. For that they had time to time converted the land into nonagricultural use. Particularly in the year 1981 and 1988. It is also contended that in 1991 the defendants shifted their petrol pump on the bypass road of Atpadi Nimbawde. Since then it is contended that the defendants have possession in the area. However, the documents about shifting of petrol pump came into the hands of defendant recently. As a result, they want to add such facts in the written statement. It is also contended that the plaintiff did not produced the copy of his sale deed when the suit came to be filed. It was placed on record while hearing interim application. Therefore, even on such ground it is necessary to amend the written statement.

2. The plaintiff has filed say below Exhibit 59 and contended that the defendant wants to wash out admission in the written statement. They have raised doubt over the proposed contention by plaintiff. It is also said that it will cause change in the written statement. It is further contended that the plaintiff has filed appeal before the District Court against order of rejection of temporary injunction application. Therefore, as the said appeal is sub- judice it is contended that the application be rejected.

3. I have heard the arguments advanced by both the parties. It is a settled law that the amendment in written statement shall be given some liberal approach. It is apparent that the additional facts which the defendants want to add in the written statement came within their knowledge after they came across certain documents. The matter is at very preliminary stage. The interim application on behalf of the plaintiff is

rejected on merit. It doesn't appear that the defendants are deleting any admission in favour of the plaintiff. In fact, in the reply to the application the defendants have very vaguely stated that admissions will be deleted. They have not pointed out as to which fact admitted by the defendants will be taken away by virtue of amendment. The deletion of certain part of pleading and its substitution appears to be justifiable at this stage as the documents were recently available to the Defendants. Moreover, the sale deed was also produced belatedly by the Plaintiffs. Therefore, the Defendants are required to be given chance for seeking such clarification. The addition facts so proposed to be amended do not change their nature of defence. In light of such circumstances when the court has rejected the interim application on merit and as there is no stay order to the decision of this court, the plaintiff has no voice to say that the amendment cannot be made as there is an appeal against rejection of interim application. Therefore, there will be nothing prejudice to the plaintiff at this stage if the amendment is allowed. He will get the chance to contest such pleadings at the stage of hearing of the suit. Hence, I pass following order:-

- i. Application is allowed.
- ii. The defendants number 3 to 5 are hereby allowed to carry out the amendment in the written statement and provide the amended a copy not before next date.

Dt.23-3-2022
Atpadi.

(V. D. Patil)
Civil Judge Jr. Dn. Atpadi.

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 - H.P.Haridas

Court - CJJD and JMFC, Atpadi.

Date - 23.3.2022

Order signed by the

Presiding Officer on - 23.3.2022

Order uploaded on -24.3.2022