

**ORDER BELOW EXH.23 IN RCS.NO.161/2022**

(Passed on 06/01/2025)

This is application for amendment in plaint.

2. This suit is submitted for partition and separate possession. Defendant No.11 has submitted his written statement with a contention that the boundaries of suit property are wrongly mentioned. Therefore, the plaintiff has submitted this application for correction of boundaries.

3. To this application the defendant No.11 has submitted his say to this application that the plaintiff has mentioned wrong boundaries of the suit property. Now deliberately he has claimed correction of boundaries. Sudam Ramchandra Shinde and Vikas Sudam Shinde are owner of the suit property. They are residing at Mumbai. They are unable to cultivate the suit property. Therefore they have executed sale deed in favour of defendant No.11 on 19/06/17. Since then he is in possession over the suit property. Defendant No.11 has submitted application for inspection of the suit property. Therefore, the present application is submitted. Hence, application may be rejected.

4. I have heard learned advocate of plaintiff. The defendant and his learned advocate are absent. Learned advocate of plaintiff relied on **Lingegowda Versus State of Karnataka, 1999(Sup) CivCC 285**, in which the Hon'ble

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Karnataka High Court laid down a ratio that amendment application may be allowed at any stage. By correction of boundaries for description of properties new case will not be introduced. He further relied on **Sunil Ghosh Versus Dijendra Lal Das and others, 2002(4) CivilJ 363**, in which the Hon'ble Gauhati High Court laid down a ratio that by change of boundaries of suit property a new case will not be introduced.

5. I have perused the plaint and a written statement of defendant No.11, in which defendant No.11 submitted that the boundaries mentioned in the plaint are wrong towards Southern side of the suit property Khandali-Chaundeshwarwadi Road thereafter, gat No.779. When the plaintiff wants to correct the boundaries of the suit and the defendant has taken a defence that the boundaries of the suit properties are wrongly mentioned, then burden lies on the plaintiff to plead and prove correct boundaries of the suit property. Therefore, no prejudice will be caused to the defendant and a new case will not be introduced by this amendment. Hence, in the result, I pass the following order:-

**ORDER**

1. The application is allowed.
2. The plaintiff shall carry out amendment accordingly.

Sd/-

Date-06/01/2025.

(U.V.Joshi)  
Civil Judge Senior Division,  
Malshiras.