

ORDER BELOW EXH. 13
CNRNO.MHSO110003092022

This is an application filed by the plaintiff under Order VI, Rule 17 of the Code of Civil Procedure for amendment in the plaint.

2. Read application. Defendants did not file their say despite sufficient opportunity. Hence, the application is proceeded without say of the defendants.

3. Heard learned advocate for the plaintiff. Perused the record.

4. The plaintiff instituted suit for perpetual injunction. It is the submission of the plaintiff that firstly he prayed in the suit that the defendant shall not erect any construction in the approach way of the common well of the plaintiff and the defendant. But during the pendency of the suit the defendant nos.1 and 2 has erected tin shed in the said way and closed the approach way of the plaintiff. Hence, he prayed to allow him to amend the suit for claiming the relief of mandatory injunction.

5. On perusal of record it appears that after service of suit summons defendant nos.2 and 4 to 7 appeared but they did not filed their written statement on record and defendant nos.1 and 3 did not appear in the matter. It is the submission of the plaintiff that during the pendency of the suit defendant nos.1 and 2 has erected tin shed and close his approach way. Due to the act of defendant nos.1 and 2, the plaintiff is unable to enjoy his right and to approach to the common well. Therefore, he is claiming mandatory injunction by way of proposed amendment. Due to the proposed amendment nature of the suit will not be changed. In such circumstances, in my considered view the proposed amendment is necessary to prevent to multiplicity of the proceeding. Hence, I pass the following order.

R.C.S. No. 114/2022
Dattu Vs. Tukaram

ORDER

1. The application is allowed.
2. The plaintiff is permitted to carry out the proposed amendment within 14 days and file amended copy of plaint on record.

Date :- 14.06.2024

(U. B. Pethe)
2nd Jt. Civil Judge Junior Division,
Malshiras.

C E R T I F I C A T E

I affirm that the contents of this PDF file Judgment/Order is same word to word as per the original Judgment/order :-

- (a) Name of the Stenographer :- A.K. Vibhute.
- (b) Court :- 2nd Jt. Civil Judge Junior Division and
Judicial Magistrate First Class, Malshiras.
- (c) Judgment/Order signed
by PO on :- 14/06/2024.
- (d) Judgment/Order uploaded
on :- 15/06/2024