

ORDER ON EXH. 60 IN R.C.S.No. 115 OF 2012

With instant application plaintiffs seek amendment of plaint vide *Order VI Rule 17* of the Civil Procedure Code.

2. In short, according to plaintiffs the defendants raised objection regarding payment of deficit court fees and by order Exh.46 dtd. 01.08.2014 they were directed to revalue the suit for the purpose of payment of court fees. Accordingly, they have valued suit and made payment of court fees. This fact needs to be reflected in the plaint and therefore proposed amendment in this respect is essential. The plaintiff No.1 has filed an affidavit in support of application.

3. The defendants have opposed application through their say at Exh.61. According to them, the plaintiffs were directed to make correct valuation of the suit within seven days however in spite of opportunity the plaintiffs have failed to make correct valuation of the suit within seven days and therefore application needs to be rejected.

4. Perused record. Heard Ld. advocates at length. Arguments are set forth in consonance of the application and say.

5. Point for determination alongwith finding and reason is as below :-

<u>Sr.No.</u>	<u>Point</u>	<u>Finding</u>
1	Whether proposed amendment is essential for final adjudication of the dispute in the parties?	Affirmative
2	Relief.	Application is allowed.

REASON

As to Point No.1:-

6. Ld. advocate for the plaintiffs submit that by order dtd. 01.08.2014 the plaintiffs were directed by this Court to reevaluate the suit for proper payment of court fees. Accordingly, they have revalued the suit and have paid the deficit court fees in the Court on 06.08.2014. Ld. advocate submits that the order was made on 01.08.2014, plaintiffs were provided an opportunity for payment of deficit court fees within seven days, they have abided by the order and paid deficit court fees on 06.08.2014. He further submits that due to technical difficulty the plaintiffs were unable to amend the plaint earlier and therefore “*not pressed*” amendment application on 23.09.2015 and have sought this amendment through instant application.

7. Ld. advocate for the defendants submits that the plaintiffs have made inordinate delay in amending the plaint and in spite of directions for proper valuation of court fees they have again paid deficit court fees and therefore amendment as sought by the plaintiffs need not be allowed.

8. Perusal of record shows that in pursuance of order dtd. 01.08.2014 the plaintiffs revalued the suit and filed purchis regarding payment of deficit court fees on 07.08.2014. The plaintiffs seek to incorporate this act in the plaint. The defendants contend that the valuation made by the plaintiffs is incorrect and they have paid deficit court fees. So far the context of proposed amendment is concerned it is limited to the extent of acts of the plaintiffs done in pursuance of order of this Court at Exh.46 dtd. 01.08.2014. The plaintiffs have made revaluation of the suit and paid deficit court fees within the stipulated period. So far the contention of defendants is concerned it relates to

authenticity and correctness of valuation of suit made by the plaintiffs however the proposed amendment is merely in respect of act done by the plaintiffs in pursuance of the order of this Court. So far the grievance of defendants is concerned it is regarding payment of deficit court fees and directly not connected with the proposed amendment. So far proposed amendment is concerned it is in respect of acts done by the plaintiffs in pursuance of order of this Court. Whether the plaintiffs have correctly valued the suit and paid correct court fees is not gist of proposed amendment hence it needs to be allowed. Therefore, answered point No. 1 in affirmative.

ORDER

- 1 Application Exh.60 is allowed.
- 2 The plaintiffs to carry out proposed amendment within 14 days.
- 3 Costs in cause.

Date:-15/02/2017.

Sd/-
(J.M.Dalvi)
Civil Judge,S.D., Barshi.

Certificate

I affirm that, the contents of this PDF file Order/Judgment are same word to word, as per original Order/Judgment.

Name of Stenographer	:-	D.S.Landage.
Court	:-	Civil Court,S.D.,Barshi.
Date:-	:-	15/02/17
Judgment/Order signed by the Presiding Officer	:-	16/02/17
Judgment/Order uploaded on	:-	16/02/17