

Order below Exh. 33 in R.C.S. No. 100/2016

The present application is filed by plaintiffs for amendment in the plaint as per Order 6 Rule 17 of code of civil procedure.

2. Plaintiffs contended that, while drafting plaint by the oversight plaintiffs failed to provide information regarding water supply arrangement to the suit property. Due to that said facts are not incorporated in the plaint. Therefore, it is felt necessary to amend the plaint.

3. Defendant filed his say at Exh. 34 and opposed the application. Defendant contended that, the trial of the case is commenced. Therefore, at this stage permission cannot be granted to the plaintiffs to amend the plaint. At last, defendant requested to reject the application.

4. Heard.

5. By the proposed amendment plaintiffs intended to incorporate details regarding the arrangement of water supply to the suit property. On behalf of plaintiffs, plaintiff No. 1 has filed his affidavit of evidence at Exh. 30 on 05.07.2017 and his cross-examination is completed by the defendant. Ongoing through the cross-examination it reveals that, some questions regarding water supply to the suit property was put to plaintiff No. 1 by the defendant. Order 6 Rule 17 is in two parts. First

part is discretionary and leaves it to the court order amendment in the pleadings. The second part is imperative and obligates the court to allow all amendments which are necessary for determining real issue between the parties. The amendment should not be unjust, nor it should be prejudicial to the interest of opposite party and should not change nature of the suit. The proposed amendment is not such a nature that, it would cause prejudice to the defendant or change the nature of the suit. Therefore, following order is passed.

:: ORDER ::

1. Application is allowed subject to cost of Rs. 300/-.
2. Plaintiff to carry out amendment within prescribed time limit as per Order 6 Rule 17 of C.P.C.
3. Amount of cost be given to the defendant.

Place : Karad.
Date : 16.01.2020.

(R. D. Gawai)
4th Jt. Civil Judge Sr. Dn. Karad.