

Order Below Exh. 128

Perused application and say on it. It is contended that, order has been passed below Exh. 127 and allowed the plaintiff to carry out the amendment. However, inadvertently it remained to be carried out. The delay in carrying out the amendment is not intentional. Hence, he has prayed for allowing him to carry out amendment as prayed for.

2. Learned advocate for the defendant has resisted the application only on the ground that the plaintiff has not carried out amendment negligently with in the period of limitation and prayed for rejection of application. In alternatively he prayed for imposing heavy costs.

3. Admittedly, as per Order 6 Rule 18 of the Code of Civil Procedure the applicant was supposed to carry out amendment within 14 days from the date of order. But he failed in it. It is contended that the amendment is remained to be carried out inadvertently. Nothing is on record to disbelieve the contention of the plaintiff. Suit is in respect of permanent and mandatory injunction. So it will be proper to adjudicate it on merit. The amendment is in respect of impleading legal heirs of deceased plaintiff. So no prejudice will be caused to the defendant if application is allowed. Therefore, the time for carrying out amendment is required to be extended. Hence, in view of this discussion I pass following order.

ORDER

1. The application (Exh.128) is hereby allowed subject to cost of Rs.100/-.
2. The plaintiff are directed to carry out necessary amendment forthwith and submit amended copy.
3. Costs in cause.

Date:-18.04.2017

[Sou V. P. Gaikwad]
Jt. Civil Judge Senior Division, Karad.