

ORDER BELOW EXH. 66 IN R.C.S. NO. 60/2004.
(CNR No.MHST-07000718-2004.)

Vishwanath Digambar Pore	---	Plaintiff.
Vs.		
Ashok Nivrutti Deshmukh & others	---	Defendants.

The present application has been filed by defendant No. 2 for amendment of the written statement at Exhibit 18. The plaintiff has filed a say at Exhibit 74 and has opposed the application. Heard the learned Advocates for both parties.

2. Defendant No. 2 contended that it is necessary to give further clarification regarding the earlier pleadings about measurement. The matter has been remanded by the appellate Court. The proposed amendment will not cause prejudice to the plaintiff, and the same is necessary for the just decision of the case.

3. On the other hand, the plaintiff contended that the application is false and illegal. The defendant has not given any explanation for such delay. The nature of the suit will be changed. The application has been filed to delay the proceedings. The defendants can file documentary evidence. The proposed amendment is different from the earlier defence. Hence, the application deserves to be rejected.

4. The defendant has relied upon the following authority:

Dinesh Goyal @ Pappu Vs. Suman Agarwal (Bindal) & Ors.,
arising out of Special Leave Petition (Civil) No. 30324/2019, Hon'ble Supreme Court.

Wherein, it is held that, *"The overarching rule is that a*

liberal approach is to be adopted in consideration of such applications.”

This authority supports the claim of the defendant, and due note of the ratio laid down therein has been taken into consideration.

5. The plaintiff relied upon the following authority:

Pandurang Krishna Gaudo (D) through LRs Vs. Madachem Bat Mines Pvt. Ltd., 2018 (4) Mh.L.J.

Wherein, it is held that, “*The test for allowing any amendment is whether the proposed amendment is necessary for deciding the real controversy in the suit. An amendment which is found to be absolutely not relevant for deciding the real controversy in the suit should not be allowed.*”

I have gone through the above-cited authority. I have taken into consideration the ratio laid down in the above cited authority.

6. In the present matter, the defendant has already taken pleadings regarding measurement. Therefore, further explanation regarding the said measurement is necessary for the just decision of the case. Such pleadings are also necessary to avoid multiplicity of proceedings. The proposed amendment will not change the nature of the suit, nor will it cause prejudice to the plaintiff. The proposed amendment is necessary for determining the real questions in controversy between the parties. However, considering the delay caused by the defendant, it is necessary to impose costs. Therefore, I am of the view that the application deserves to be allowed. Hence, the following order is passed:

- : O R D E R : -

- i) The application (Exh. 66) is allowed, subject to costs of Rs. 300/- payable to the plaintiff.
- ii) Defendant No. 2 shall carry out the amendment within 14 days from the date of this order.
- iii) The amended written statement shall be filed on record.

Place :- Karad.
Date :- 09/01/2026.

(Smt. A.V. Mohite)
3rd Jt. Civil Judge (Jr. Div.), Karad.
Tal. Karad, Dist. Satara.