

MHST070040202024



**Order Below Exh. 35 in R.C.S. 410/2024**  
**(Ashok Tukaram Mohite Vs. Balaso Madhav Mohite)**

1. The plaintiffs have filed this application under Order VI Rule 17 of the Civil Procedure Code for amendment in the plaint. It is contended that, the suit is filed for partition and separate possession claiming 1/3 share in the suit property. There is typographical mistake in the prayer clause which was number incorrectly. Similarly share of the plaintiff is 1/4 instead of 1/3. Hence, by way of this application the plaintiff intends to amend the plaint to rectify said mistakes. Hence, plaintiff prayed to allow the application.

2. The defendant Nos. 5A, 5B, 6 to 8, 10 and 11 have given no objection for proposed amendment. The defendant Nos. 1 to 3 objected application by filing say (Exh. 37). It is contended that, the application is false and frivolous. The nature of the suit will change if the proposed amendment is allowed. This application is filed only to delay the hearing of the suit.

Contending defendant Nos. 1 to 3 prayed to reject the application.

3. Following points arises for my determination and I record my findings thereon with reason to follow.

| SR. NO. | POINTS                                                                                        | REASONS             |
|---------|-----------------------------------------------------------------------------------------------|---------------------|
| 1       | Whether the proposed amendment is necessary to adjudicate real controversy between the party? | Yes.                |
| 2       | What order?                                                                                   | As per final order. |

4. Heard.

5. Perused the record.

### **REASONS**

#### **AS TO POINT NOS. 1 AND 2 :-**

6. Plaintiffs are praying for amendment in the plaint.

Order VI Rule 17 of the Code of Civil Procedure provides as

under-

***Rule 17. Amendment of pleadings—***  
*The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties.*

*“Provided that no application for amendment shall be allowed after the trial has commenced, unless the court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.”*

7. Bare reading of the said provision shows that, the Court can allow amendment if it is necessary for the purpose of determining the real questions in controversy between the parties. Perusal of record shows that, the suit is filed for partition and separate possession. By way of this application plaintiffs intends to amend pleadings and correct the shares of the parties and typographical errors in sequence of the paragraph numbers. Therefore, proposed amendment will not change nature of the suit. The proposed amendment is necessary for deciding real question of controversy between parties. No prejudice will be caused to defendant if proposed amendment is allowed as the defendant Nos. 1 to 3 will have right to file her additional written statement. Therefore, the application deserves to be allowed. Therefore, I answer point No. 1 in the affirmative and in answer to point No. 2, I pass following order.

## **ORDER**

1. The application (Exh.35) is allowed.
2. Plaintiffs to carry out the proposed amendment within 14 days from the date of this order and place amended copy of plaint on record and also supply it to the defendants.
3. Note of this amendment be taken in the suit register.

Date : 18/03/2026

**(Prashant P Kulkarni)**  
4<sup>th</sup> Jt. Civil Judge Junior Division,  
Karad.