



ORDER BELOW EXH.93 IN RCS NO.308/2012

The present application has been filed by the plaintiff for amendment under Order 6 Rule 17 of the Code of Civil Procedure.

2. Heard learned advocate for the plaintiff and learned advocate for the defendants. Perused the record.

3. Upon rival contentions of both the parties following points arise for my determination and to which findings are given along with the reasons thereon.

Sr.No.	POINTS	FINDINGS
1.	Whether the plaintiff is entitled for the amendment ?	Yes
2.	What order ?	Application is allowed.

REASONS

AS TO POINT NO.1 :-

4. The learned advocate for the plaintiff submitted that inadvertently name of proposed defendant no.2E in application for taking legal heirs on record (Exh. 53) is written as "Lata Balasaheb Jagtap" instead of "Lata Balasaheb Jagdale". He further submitted that the present amendment is necessary for final adjudication of the dispute. He further submitted that if the present amendment is allowed then it will not change the nature of suit. Hence, he prayed that the application be allowed.

5. On the other hand, learned Advocate for the defendants submitted that the application is illegal and beyond limitation. Hence, he prayed that application be rejected.

6. Considering the facts and circumstances of the case, it appears that the present suit is for perpetual injunction and therefore, correction of name of proposed defendant in the amendment application is necessary for final adjudication of the dispute. However, the present application is strongly objected by the proposed defendants on the ground that application is illegal and beyond limitation. Considering the facts and circumstances, I am of opinion that the present amendment will not change the nature of suit and it is merely formal in nature. Hence, I answer point no. 1 in the affirmative.

AS TO POINT NO. 2 :-

7. Upon considering the facts and circumstances and my finding as to point no.1, the present application deserves to be allowed because the trial has not yet commenced. In answer to point no. 2, I pass the following order-

ORDER

- (1) Application (Exh.93) is allowed with costs.
- (2) The plaintiff is directed to pay cost of Rs. 300/- and it is to be paid to the defendants.
- (3) The plaintiff is directed to carry out the said amendment within 14 days from the date of this order.

Date: 04/10/2023
Koregaon.

(A.A.Pacharne)
Jt. Civil Judge, Jr. Division,
Koregaon.