

ORDER BELOW EXH. 74 IN R.C.S. NO.119/2024

This is an application filed by the learned advocate for the plaintiff under Order VI, Rule 17 of the Code of Civil Procedure for amendment in the plaint.

2. It is contention in the application that the suit is filed for partition and perpetual injunction. Inadvertently and owing to typographical mistake old gat numbers of the suit properties serial numbers 3, 5 and 6 are wrongly mentioned as 155. Therefore, it is necessary to correct them as 2/3, 26A and 2/5 respectively. The amendment is a formal in nature and would not change the nature of the suit. Further, if the application is allowed there would be no prejudice to the defendants. Accordingly, it is prayed to allow the application.

3. The learned advocate for the defendants objected the application on the ground that false and bogus reasons mentioned in the application. In order to prolong the suit, the application is filed. Therefore, he prayed to rejection of the application. Alternatively, he prayed for cost of Rs. 2000/-.

4. The following points arise for my determination, on which I record my finding, with reasons therefor -

POINTS

FINDINGS

- | | |
|---|-------------|
| 1. Whether it is necessary to allow amendment for the purpose of determining the real question in controversy between all the parties ? | Yes. |
| 2. Whether the proposed amendment will change the nature of the suit ? | No. |

3. What order ?

**Application is
allowed.**

REASONS

5. Heard both sides. Perused the record and proceeding.
Perused the relevant provisions of the Code of Civil Procedure.

As to points no. 1 to 3

6. Order VI, Rule 17 of the Code of Civil Procedure empowers the Court to allow amendments if it is necessary for the purpose of determining the real questions in controversy between the parties. The main object of this provision is to determine the real questions in controversy between the parties and to prevent further litigation among or between them in respect of same subject.

7. In the light of above legal provisions, it is necessary to go through the averments in the application. It is specific contention of the plaintiff that inadvertently and due to typographical mistake old gat numbers of the suit properties serial numbers 3, 5 and 6 are wrongly mentioned as 155. Therefore, it is necessary to correct them as 2/3, 26A and 2/5 respectively. Considering, the contention in the application, pleadings and documents filed on record, I am of the view that the amendment sought is technical in nature and it will not affect on the nature of the suit.

8. As mentioned above the suit is for partition and perpetual injunction. Yet defendants to file their written

statements. Further, considering the application the proposed amendment will not change the nature of the suit. Therefore, there will be no prejudice to the defendants if the application is allowed. In result, I answer points no. 1 and 2 accordingly and to answer point no. 3 I pass following order.

ORDER

- 1 The application is allowed subject to costs of Rs.100/- to be paid to the defendants.
2. The plaintiff is hereby allowed to amend the plaint as prayed.
3. The plaintiffs to carry amendment on or before next date and also furnish amended copy of the plaint on record.
4. Cost on applicant / plaintiff.

Patan
Dt. 12.08.2024

(P. D. Bhirde)
2nd Jt. Civil Judge, J.D., Patan.