

MHST130009052019 	R.C.S. No. 91 of 2019 Uttam V/s Shantabai
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ORDER BELOW EXH. 37

The plaintiff has filed the present application seeking an amendment to the plaint. By the proposed amendment, the plaintiff intends to incorporate the City Survey No. 107 in paragraph 1A after the description of the suit property and before the boundaries, and to mention the adjoining City Survey Nos. 108, 106 and 131 in the respective boundaries. The plaintiff further seeks to add a statement after paragraph 3 to the effect that the defendant has wrongly got his name recorded in the City Survey record of City Survey No. 107 on the basis of copies of an earlier suit and that such entry does not confer ownership upon him. According to the plaintiff, the amendment is formal in nature, will not change the nature of the suit, and is necessary for better identification of the suit property.

2. The defendant has opposed the application, contending that the amendment is false, belated and intended to fill up lacunae after framing of issues. It is contended that the suit property has already been sufficiently identified by its boundaries; that the City Survey of the village was conducted in the year 2012-13 and numbers were allotted much prior to filing of the suit; that the amendment is sought after issues were framed on 25/06/2025;

and that previous proceedings between the parties have already decided the issue of ownership. It is further contended that the amendment at this stage is not bona fide and is liable to be rejected.

3. On perusal of records, it appears that the suit is filed for declaration of ownership and possessory rights in respect of the suit property and for consequential injunction. The proposed amendment seeks to mention the City Survey numbers of the suit property and of the adjoining properties in the boundaries clause, and to add an averment regarding the defendant's name being recorded in the City Survey record. The nature of the relief claimed in the suit remains unchanged.

4. Order VI Rule 17 of the Code of Civil Procedure permits amendment of pleadings at any stage of the proceedings, provided that after commencement of trial, no amendment shall be allowed unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before commencement of trial. In the present case, though issues were framed on 26/06/2025, the plaintiff has not yet filed an affidavit of evidence, and the trial in its real sense has not commenced. The stage of recording evidence has not begun. Therefore, the rigour of the proviso to Order VI Rule 17 CPC does not strictly operate against the plaintiff.

5. The proposed amendment, insofar as it relates to the incorporation of City Survey numbers in the description and boundaries, is clarificatory in nature and intended to bring more

specificity to the identification of the suit property. It does not introduce a new cause of action, nor does it change the fundamental character of the suit. Proper identification of immovable property is essential for effective adjudication, and mentioning survey numbers along with boundaries facilitates such identification.

6. The additional averment regarding the recording of the defendant's name in the City Survey record is also connected with the subject matter of the suit and does not introduce a new and inconsistent case. The merits of rival contentions, including the effect of previous judgments and entries in the revenue record, are matters to be considered at the stage of trial. At the stage of considering an amendment, the Court is not required to adjudicate upon the correctness of the proposed pleadings.

7. The objection that the amendment is sought after framing of issues and is intended to fill up lacunae cannot, by itself, be a ground to refuse amendment when the trial has not effectively commenced and when the amendment is necessary for determining the real questions in controversy between the parties, as contemplated under Order VI Rule 17 CPC. Any prejudice likely to be caused to the defendant can be compensated by granting the opportunity to file an additional written statement.

8. Considering the above circumstances, this Court is of the opinion that the proposed amendment is necessary for proper adjudication of the dispute and does not alter the basic nature of

the suit. The application, therefore, deserves to be allowed. Hence, I pass the following order.

ORDER

1. The application at Exhibit 37 is allowed.
2. The plaintiff is permitted to amend the plaint in terms of the schedule of amendment annexed to the application.
3. The amended plaint shall be filed within 14 days from the date of this order.
4. The defendant is at liberty to file an additional written statement, if any, within 30 days thereafter.

Date:- 17-2-2026

(Rajesh M. Lolge)
Civil Judge Jr. Division, Patan