



ORDER BELOW EXH.44

This is an application filed by the plaintiff under Order 6 Rule 17 of the Civil Procedure Code, 1908 (Hereinafter referred as “the C.P.C” for the sake of brevity) for amendment in the plaint. Perused the application. Despite of various opportunities, defendants failed to file their reply on the instant application. Heard the learned counsel for the plaintiff Mr. U. V. Kadam at length.

2. It is the contention of the plaintiff that in para no.1 of the plaint, the four boundaries of suit properties remain to be given. The proposed amendment is necessary for the just decision of the instant suit. Moreover, if the proposed amendment is allowed then no prejudice is going to caused to defendants. Hence, the plaintiff prayed to allow the instant application.

3. It is pertinent to note that despite of granting various opportunities, defendants have failed to contest the instant application by filing their say. As such, there is absolutely no challenge to the instant application.

4. Perusal of record reveals that issues are framed at Exh.43. Moreover, the suit was pending for filing of affidavit of examination in chief by the plaintiff. Thereafter, the instant application came to be moved. It is pertinent to note that the trial is yet to be commenced in the instant suit. If the plaintiff is allowed to add four boundaries of suit properties then it will assist the court to reach just decision of the suit. Moreover, if the proposed amendment

is allowed then no prejudice is going to cause to defendants. Similarly, the proposed amendment in no manner changes the nature of the suit. As such to decide the real controversy between the parties, the proposed amendment appears to be necessary and important. Thus, I am inclined to allow the same in the interest of justice. Consequently, I proceed to pass following order.

ORDER

1. The application stands allowed.
2. The plaintiff is permitted to carry out the proposed amendment in the plaint on or before next date.
3. The plaintiff is directed to place on record the amended copy of the plaint and further directed to supply copy of the same for defendants.
4. No order as to costs.

Place : Phaltan.
Date : 29/11/2023

(R. D. Bhuyarkar)
CJJD