

Regular Civil Suit No.119/2017  
Mukund Vs. Madan

**Order Below Exh. 20**  
**(Passed on 21<sup>th</sup> November, 2022)**

This is an application filed by the plaintiff for amendment in the plaint. The plaintiff contended that an application Exh.17 for appointment of Court Commissioner was allowed and accordingly the commissioner report has been filed on record. During that commission, some facts were observed by the commissioner in respect of measurement of the suit property and in such circumstances, the contents in plaint para No.1B i.e. “पूर्व पश्चिम अंदाजे २२ फुट व दक्षिणोत्तर १.५ फुट रुंद” has to be replaced by “४.३३ चौ.मी. म्हणजेच ४६.५९ चौ.फुट.” Further, he wants to amend the contents that 'सोबत कच्च नकाशा' by necessary mention as “याकामी तातडी कोर्ट कमिशन मो.र.नं.८२ चा नकाशा” has to be replaced. Further, he submitted that the nature of suit will not be changed by the proposed amendment and no prejudice will cause to the defendants. Therefore, it be allowed.

2. The defendants failed to file their reply to the present application and therefore, it is being proceeded without their say vide order dated 12/09/2022.

3. Heard learned advocate for the plaintiff. Learned advocate for the defendants choose to remain absent, when he was called repeatedly.

4. Perused the record. It is a matter of record that the Court Commissioner was appointed by order of this Court passed below

Exh.17 on 17/08/2019. Accordingly, Deputy Superintendent of Land Records has filed his report along with the necessary documents of the proceeding. He contended that the said report has been filed at Exh.18 and the say of both the parties was called. The present suit has been filed for perpetual injunction as well as mandatory injunction for the removal of construction carried out by the defendants.

5. The Commissioner has filed the report in respect of measurement carried out by him on record. The plaintiff wants to amend the suit to that effect only. Having account to the nature of prayer made by the plaintiff in the suit, I find that the present application is having substance. Moreover, no prejudice will be caused to the other side as they also will have every opportunity to make their submission on account of the amendment carried out by the plaintiff by virtue of said measurement. Importantly, the trial is yet to begin. Therefore, I pass following order:

### **ORDER**

1. The application (Exh.20) is hereby allowed.
2. The plaintiff to carry out proposed amendment till next date.
3. No order as to cost.

[Dictated and pronounced in the open Court.]

Place : Wai  
Date : 21.11.2022.

**(R.M. Bhende)**  
Jt. Civil Judge Junior Division,  
Wai, Dist. Satara.

**CERTIFICATE**

“ I certify that this Order uploaded is a true and correct copy of original signed Order”.

Order dictated on : 21.11.2022.

Order checked and signed on : 21.11.2022.

Uploaded by : S. S. Kumbhar.  
Stenographer (Grade-III)

Uploaded on : 23.11.2022.