

Spl.C.S. No. 8/2013
Pandurang & Ors. Vs. Suresh
and Ors.

ORDER BELOW EXH.89.

The plaintiff filed this application under Order VI, rule 17 of the Code of Civil Procedure to make amendment in the plaint.

2. I read an application. No reply filed by defendants. Heard the learned counsel for plaintiffs Adv. Shri.K. V. Jadhav. All defendants and their counsel are absent when called.

3. The plaintiff filed this instant application and submitted that the suit was fixed for the final argument. During the course of argument, the learned counsel for plaintiff came to know that the plaintiff filed the copy of sale deed dated 28.01.2010 which is at Ex. 86. As per the sale deed at Exh. 86, the total consideration amount is Rs.14,15,000/-. However, the plaintiff, while filing the suit, mentioned in para No.3 of the plaint that the total consideration amount for the sale deed dated 28.01.2010 is Rs.14,50,000/-. The plaintiff want to say that the total consideration amount of the aforesaid sale deed is Rs.14,15,000/-, but not Rs.14,50,000/-. The amount Rs.14,50,000/- is inserted in the plaint mistakenly and therefore, the plaintiff want to correct the said mistake. Therefore, the plaintiff filed the instant application to insert Rs. 14,15,000/- instead of Rs.14,50,000/- in para No.3 of

the plaint and therefore, prayed to allow this amendment application.

4. This suit is filed for the decree of perpetual injunction against defendants. This suit is proceeded without written statement of defendant No.2,3,9 and 10 and it is proceeded ex-parte against defendant No.4 to 8 vide order below Exh. 1 dated 09.03.2018. During the pendency of suit, the defendant No.1 died and therefore, the legal representative of defendant No.1 namely Monali Chorage is taken on record. No any defendants filed written statement. Now, plaintiffs want to insert Rs. 14,15,000/- instead of Rs.14,50,000/- in para No.3 of the plaint. The plaintiff filed this application after the completion of trial. The plaintiff would have file such application before the commencement of trial. However, the plaintiff filed such application when the matter was fixed for the final argument. Therefore, the plaintiff is liable to pay cost for such delay. Secondly, no prejudice will be caused to any of the defendant, if the application is allowed. The plaintiff has not claimed any other relief by way of this amendment application. Under these circumstance, it is necessary to allow plaintiff to make amendment in the plaint as claimed. Accordingly, I proceed to pass the following order.

ORDER

1. The application is allowed.
2. The plaintiff is permitted to make necessary amendment in the plaint till next date subject to cost of Rs.500/- payable by plaintiffs to D.L.S.A., Satara.

3. The plaintiff is further directed to file the amended copy of plaint till next date, otherwise this application shall automatically stands rejected.
4. Both the parties are directed to take note of it.

Vaduj
Date: 02.02.2023

(D.D. Fulzele)
Civil Judge Sr.Dn., Vaduj