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MHTH170005532013



**ORDER BELOW EXH.261 IN REGULAR CIVIL SUIT NO.83/2013  
(Sau.Darshna Dattrya Thakur Vs. 1.Shri Mahendra Vasudev Patil  
and 18)**

This is an application filed by defendant No.6 for the amendment in the issues No.4 vide Exh.87 as per section 151 of the Code of Civil Procedure.

2] The defendant No.6 by way of this application averred that, in issue No.4 due to typographical mistake the date of will is mentioned as '21.06.2000' instead of '21.06.2007'. Hence, the defendant No.6 moved this application for amendment in the issues.

3] Plaintiff has filed say at Exh.262 and averred that the amendment is necessary. However, the plaintiff averred that the burden of the said issue is on the defendant. Hence, the plaintiff asked for the correction of issue as to imposing the burden on defendant.

4] On perusal of rival pleading of both the parties, following points arose for my determination and I answer them for the reasons discussed hereinafter-

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<b>Sr.No.</b>	<b>POINTS</b>	<b>FINDINGS</b>
1	The amendment asked by the defendant No.6 is necessary for determining the real question involved in the suit ?	Yes.
2	What order ?	Application is allowed.

### **REASONS**

#### **AS TO POINT NO.1 & 2 :-**

5] On perusal of rival pleading it reveals that the present application is as per order 14 Rule 5 and section 153 of the Code of Civil Procedure. Therefore, the amendment in issue bearing No.4 as '21.06.2000' instead of '21.06.2007' is required to be made.

6] The amendment asked by the defendant No.6 is due to typographical mistake. Therefore, the said mistake is required to be corrected. However, on perusal of said issue, it reveals that the burden is not casted on any of the parties. On perusal of the plaint it reveals that the said will is without any authority therefore void. Therefore, the execution of will is an admitted fact. However, its legality is challenged by the plaintiff. Therefore, the burden is on plaintiff to prove that the said will dated 21.06.2007 is null and void. Therefore, the issue No.4 is required to be recasted. Hence, I answer point no.1 in the affirmative and in answer to point no.2, I proceed to pass following order -

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**ORDER**

- a] Application is allowed.
- b] The amendment is carried out in issue No.4 and accordingly the issue No.4 is recasted as follows:

**Recasted Issue No.4 :-**

वादी हे सिध्द करते का मयत वासूदेव नाना पाटील यांनी केलेले दिनांक २१.०६.२००७ रोजीचे मृत्युपत्र हे बेकायदेशीर आहे?

**Palghar**  
**Date : 12/12/2025**

**(M. M. Mali)**  
**2<sup>nd</sup> Jt. Civil Judge Senior Division,**  
**Palghar.**