

**MHTH170005812013**



**ORDER BELOW EXH. 117 IN R.C.S. NO. 91/2013**

**(Shri Yatindra Ramesh Nirgun Vs. shri Sadguru Shri Smarth  
Satam Maharaj Seva Trust)**

The present application is filed by plaintiff to carry out amendment in the plaint.

2] Learned advocate for Defendant no. 1/6 has filed say at Exh. 122 and has prayed that application be rejected with costs.

3] Perused application and say. Heard learned advocate of both sides.

4] It is the contention of plaintiff that during the pendency of the suit defendants have carried out additional construction in the suit property and therefore it is necessary to amend the plaint in order to bring on record pleading with respect to said construction and to seek the relief of mandatory injunction. Hence it is prayed that application needs to be allowed.

5] According to defendants they have not carried out construction in this suit property as alleged by the plaintiff. Further according to them contents of the proposed amendment are false and the proposed amendment will change the nature of the suit. Hence according to defendants application is liable to be rejected.

6] On perusal of plaint, the present suit is filed seeking relief of mandatory injunction with respect to alleged encroachment. Now it is the contention of plaintiff that during pendency of the suit defendants have carried out additional construction and therefore plaint needs to be amended to incorporate pleading with respect to it. On the contrary, according the defendants the contents of the proposed amendment are false.

7] At the time of deciding application for amendment of plaint merits of the amendment can not be gone into. The proposed amendment is with respect to the subsequent events. Therefore, in the facts and circumstances of the present suit, if the proposed amendment is allowed it will not change the nature of the suit. It will not cause prejudice to the defendants. Hence, the proposed amendment appears to be necessary to decide the real controversy

between the parties. Hence, in view of above discussion, the present application needs to be allowed. Therefore, I proceed to pass following order.

**ORDER**

- (1) Application (Exh. 117) is allowed.
- (2) The plaintiff is directed to carry out amendment and to supply copy of amended plaint on or before next date.

Palghar  
Date : 14/06/2024

(Amit P. Kokare)  
Civil Judge Senior Division,  
Palghar