

Order below Exhibit No.53

This is an application filed by the plaintiff under Order 6 Rule 17 of the Code of Civil Procedure for amendment in plaint. Defendant opposed the application for filing say on overleaf of the application. Read the application and say filed by the learned Advocate for the defendants. Heard both the sides.

02] It reflects from the contention in the application that while instituting the present suit it is remain to mentioned the history of the suit property. Therefore the plaint want to insert additional pleading about the history of the suit property. The learned Counsel for the defendant opposed the present application on the count that said fact is not arise during the trial and present application is only filed with intention to prolong the matter. So also on the ground of due diligence, the present application is not maintainable and liable to be rejected.

03] The suit is filed for declaration, partition and separate possession of the suit property. In the present suit the question of partition is involved. Therefore, the nature of the suit property is required to be decided in the present suit. For the purpose of ascertaining the nature of the suit property, plaintiff wants to bring on record the history of the suit property. While dealing with the application for amendment in the pleading, the merits of the suit can not be look into. In the case in hand, only additional history of the suit property is sought to be brought into the pleading of the plaintiff. Considering the nature of the amendment sought by the plaintiff, it appears that the said amendment will not change the nature of the suit property. Moreover, no prejudice would be caused to the defendant if the said amendment is allowed. It is pertinent to note that the Court may at any stage

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of the proceeding allowed either party to alter or amend his pleading in such manner and on substance and may be just, and all such amendment shall be made as may be necessary for the purpose of determining the real question in controversy between the parties. Therefore, in the present case, it is necessary to allow the present application. If the application allowed, no prejudice would be caused to the defendant. In view of the above discussion, I passed following order:

ORDER

- 1] The application is allowed.
- 2] The plaintiff is directed to carry out amendment on or before next date from today and to filed amended copy of plaint along with copies for the defendant.

Place – Seloo
Date – 02.07.2025

(S.R.Satbhai)
Civil Judge Jr. Dn., Seloo.