

**ORDER BELOW EXH. 28**  
**IN REG. CIVIL SUIT NO. 46/2018.**

1. This is an application for amendment in the written-statement under Order-6, Rule-17 of the Code of Civil Procedure, 1908.

2. The background of the case in nutshell is that; the plaintiff has filed the suit for partition and separate possession of field property survey No.160, 146, 145 and 194 situated at mauza Dindoda, Tah. Seloo, District Wardha. In the said suit, plaintiff has prayed for half share in field survey No.150 in his favour. Defendant brought their written-statement below Exh.12 contending that as plaintiff was serving in Army, he was residing at Nagpur. During all this period, defendant No.1 was looking after their father Wanu. He also gave monetary assistance to plaintiff for marriage and education of his children. Defendant No.1 was alone looking after all the field properties. It is also contended that defendant purchased some property in the name of his father on his insistence. The field which he purchased was paid by defendant No.1 alone, and therefore, plaintiff has no right, title or interest on that field.

3. It is in this respect vide this application defendants are seeking to incorporate the proposed amendment. On perusal of the proposed amendment, it appears that the amendment is explanation of the transaction of sale made by the father Wanu with respect to survey No.25/8 with one Sitaram Rajaram Walke. The amendment does not appear to change the nature of the dispute. No prejudice would be caused to the plaintiff, if the proposed amendment is allowed to be incorporated in the written-statement.

4. To avoid the further complications which may arise in future and also to protect the right of defence, it appears just and proper to allow this application. However, the fact in the proposed amendment is not the product of the subsequent development but is the much earlier fact, which defendant No.1 and 2 are expected to know and incorporate in the written-statement at the time of the filing of the written-statement. The proceeding is already commenced as plaintiff has lead his evidence.

5. Hence in the considered opinion of this court, allowing this application will not change the nature of this suit and would not cause any loss or prejudice to the plaintiff. Therefore the following order is passed.

**- ORDER -**

- 1] The application is allowed subject to cost of Rs.200/- within 14 days of this order.
- 2] The defendants are directed to incorporate the amendment within the prescribed period of limitation, from the date of this order.
- 3] The defendants are also directed to pay the require court fees against the proposed amendment, if any.

Seloo.  
Date : 13/01/2020

[ Enna Vijay Dhande ]  
Joint Civil Judge,  
Junior Division, Seloo.