

R.C.S.no.12/15
Tukaram .Vs. Siddarath

ORDER BELOW EXH.21

1) By this application plaintiff has requested for amendment in plaint. Read application and perused record. Heard Advocate for plaintiff. Defendants have not field say.

2) It is stated that, plaintiff has challenged power of attorney dated 17.07.2007 allegedly executed by plaintiff in favour of defendant no.1. However, in para no.8 of plaint word relinquish deed has been mentioned instead of power of attorney. Plaintiff wants to replace word relinquish deed by inserting word power of attorney in para no.8 of plaint.

3) Record shows that, plaintiff has prayed for cancellation of power of attorney dated 17.07.2007 executed in favour of defendant no.1. In para no.11, 12, 16, 17, 18, 19 there is reference about power of attorney which has been challenged in suit. It appears that, due to inadvertently word relinquish deed has been mentioned in para no.8 of plaint instead of word power of attorney. Nature of suit will not be changed by proposed amendment. No prejudice will be caused to other side if the application is allowed. Trial is not yet commenced. There is nothing on record to show that, application lacks bonafide. Considering above facts and circumstances, nature of amendment and in the interest of justice application deserves to be allowed.

4) Plaintiff has also requested for said amendment in para no.9 of temporary injunction application. Order 6 Rule 17 of Civil Procedure Code speaks about amendment in pleadings. Order 6 Rule 1 says “pleading” shall mean plaint or written statement. Application of temporary injunction does not come under the expression of plaint or written statement. Therefore, applicant is not entitled to amend the temporary injunction application as prayed. Hence following order.

ORDER

- 1) Application is partly allowed.
- 2) Plaintiff is permitted to amend para no.8 of plaint as prayed within 14 days from the date of order.

Samudrapur
Dt.19.03.2016

Sd/-
(V.M.Mankhair)
Jt. Civil Judge,Jr. Dn.
Samudrapur