

ORDER BELOW EXH.24 IN R.C.S. NO. 03/2019

(Chanadabai Shamlal Chaudhari Vs. Vinod Pandurang
Thombare & ors.)

The plaintiffs have moved the present application for amendment of pleadings under Order VI Rule 17 of Code of Civil Procedure 1908.

2. They have contended that, they have filed the present suit for possession of suit property. They further contended that, the defendant has taken a plea that plaintiffs are not owner of the suit property and hence, there is need to do necessary amendment by inserting para No. 5(a). It is further contended that, be hearing of the suit is yet to be commenced, the proposed amendment will not change nature of the suit and no prejudice will be caused to the defendants. Hence, they prayed the allow the application.

3. The defendants have filed say and contended that, the proposed amendment will completely change the nature of suit. Further, the said amendment is not in limitation. It is also contended that, plaintiff is not real owner of property. Considering all above aspects they prayed for rejection of application.

4. Considering the above said rival contentions of the parties following points arise for my consideration.

Sr. No.	Points	Findings
1.	Whether proposed amendment is necessary for the purpose of determining the real question in controversy between the parties ?	... Yes
2.	What order ?	... As per final order.

5. Perused the record.

6. After perusing the record, it reveals that, the suit is for ejectment and for possession of the suit property and also for recovery of arrears. Record shows that, the defendants have filed W.S. below Exh. 9 and issues are framed below Exh.10. After going through the W.S., it reveals that, defendants have raised cloud regarding the ownership and accordingly issue of ownership is framed. The plaintiffs by way of present application are only intending to make an amendment regarding the contentions of their ownership. The proposed amendment seems to be elaboration of earlier pleadings. So considering all above aspects, I hold that for the complete adjudication of the dispute the proposed amendment is necessary, this will not change the nature of the suit in any manner. Further, in said suit issues are framed but the evidence is yet to be adduced and if the proposed amendment is allowed then there will be no any prejudice to the defendants and they will have an opportunity to file their additional W.S., if any.

7. So considering the nature of the dispute I am of the opinion that, proposed amendment is necessary for the purpose of determining real controversy between the parties. Hence, I answer point no.1 in the affirmative. Considering all above aspects I proceed to pass the following order.

ORDER

1. Application (Exh.24) is allowed.
2. Plaintiffs are permitted to carry out necessary amendment in the plaint and file amended copy of plaint within stipulated period.

Karanja (Gha.)
Date:- 06/10/2023

(V.S. Wagh)
Civil Judge, Jr.Division,
Karanja (Gha.), Dist. Wardha.