

ORDER BELOW EXH.31 IN R.C.S. NO.17/2015

(Ulhas Gulabrao Mohod V/s. Kanta Chintamanrao Ingale)

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

2. He has contended that, he has filed the present suit for perpetual injunction and possession. Further, contended that, in present matter issued are framed on 08/04/2022 and suit is evidence of plaintiff. He has contended that, in present plaint there are some typographical mistakes and said fact revealed at the time of making examination-in-chief. Hence, he has prayed that, he may be permitted to do the necessary amendment in plaint as prayed.

3. The defendant has filed say and contended that, the present suit is old one, the plaintiff has filed the application only with intention to prolong the matter. Further, he has no right to correct alleged typing mistake at this stage. Further, the proposed amendment will change the nature of suit, it is not necessary for deciding real controversy between the parties and hence, 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. Heard the learned advocate for the parties.

6. The present suit is filed for perpetual injunction and possession. The plaintiff by way of present application in intending to make amendment in the paragraph-2 as regards the name and is also intending to amend the sketch map filed alongwith the plaint by amending the southern side boundary. Perused the plaint. It reveals that, the plaintiff in the boundary marks given in description of suit property has shown house of Prashant Mohod towards the southern side of suit property.

7. Further, record shows that, in plaint para-2 plaintiff has contended that, the Ganpatrao Ingale has two sons namely Keshav and Chintaman and out of that Chintaman is no more. Further, he has contended that, the present defendant is widow of deceased Chintaman. In para-2 line No.5 the name of Keshavrao Ganpatrao Ingale is been mentioned. The plaintiff is

contending that, name of Keshavrao is typographical mistake and said name has to be Chintaman.

8. In present suit, the plaintiff has alleged that, the defendant has illegally encroached upon the land which belongs to plaintiff. Issues are framed below Exh.27 but plaintiff has not yet adduce evidence. After considering the nature of the dispute, nature of the proposed amendment, I hold that, proposed amendment will not change the nature of suit and in my opinion the 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 is allowed.
2. Plaintiff is permitted to carry out necessary amendment in plaint para-2 line No.5 and also permitted to mention the southern side boundary in the sketch map filed alongwith the plaint. Further, directed to file amended copy of plaint within stipulated period.

Karanja (Gha.)
Date:- 10/02/2023

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