

ORDER PASSED BELOW EXHIBIT-36.

1. This application is filed by plaintiff for carrying out amendment in plaint under Order 6 Rule 17 of the Code of Civil Procedure.

2. Plaintiff contended that, in the present suit in para No.1 while describing the suit property he has failed to mention the name of the village and hence vide this application he intends to add the name of the village. Hence, the application.

3. Defendant resisted the said application and filed his say. The defendant contended that, this application is not tenable and it is filed after thought and at belated stage and it will change the nature of suit hence not permissible to carry out the amendment.

4. Considering the rival contentions of both parties, following points arise for my determination and I record my findings thereon for the reasons mentioned below : -

<u>Point for Determination</u>	<u>Findings</u>
1) Whether application is liable to be allowed ?	Yes.
2) What order ?	Application is allowed.

REASONS

As to point Nos.1 & 2 :

5. Heard both the learned advocates at length. Perused the record. This is a suit for removal of encroachment alongwith mandatory injunction. In the present suit, plaintiff has described the

suit property in Complaint Para No.1. But on going through the description it appears that name of the village is not mentioned. As per **Order 7 Rule 3 of Code of Civil Procedure** *“Where the subject matter of the suit is immovable property, the complaint shall contain a description of the property sufficient to identify it, and, in case such property can be identified by boundaries or number in record of settlement or survey, the complaint shall specify such boundaries or numbers.”* In the present suit plaintiff has not mentioned the exact location i.e. the name of the village. Therefore, it is necessary to bring name of the village on record. Hence the proposed amendment is essential as per Order 7 Rule 3 of Code of Civil Procedure. I find no merits in the defense taken by the defendant. Thus, In view of my above discussion I am of the opinion that the application is liable to be allowed. Accordingly, I answer point No.1 in the positive and in answer to point No.2, I pass the following order.

ORDER

01. Application Exh.36 is allowed.
02. Plaintiffs to carry out the amendment on or before next date and file the amendment complaint within fourteen days from the date of the order.

(Nayomi P. Pawar)

Date : 24/01/2023

Jt. Civil Judge (Sr. Division), Washim.

CERTIFICATE

I affirm that the contents of this P.D.F file Judgment/Order are same word to word, as per the original Judgment/Order.

Court Name : Jt. Civil Judge (S.D.), Washim,
Dist.Washim.

Date : 24.01.2023.

Order signed by the presiding officer on : 24.01.2023.

Order uploaded on : 25.01.2023.

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