

ORDER BELOW EXH.51.

Present application is filed by the plaintiff under Order 6 Rule 17 of the Code of Civil Procedure to amend the pleading.

2. In short it is the contention of plaintiff that in para No.1 of the plaint the words 'more than 20 years' came to be typed wrongly instead of 'since beginning'. It is also necessary to mention that the suit property is the ancestral property of plaintiff. The proposed amendment is necessary. It will not change the nature of suit nor cause prejudice to the defendants. Hence, prayed to allow the application.

3. Defendant No.3, 4 and 5-A to 5-E filed say and opposed the application contending that issues are framed on 08/01/2017. The trial is commenced. As per provisions Order 6 Rule 17 the application can not be allowed. Hence, prayed to reject the application.

4. Heard both the parties. On perusing the record it appears that the issues are framed on 18/01/2017 and thereafter, on 09/07/2021. After framing of the issues the trial commences. It means in present matter the trial is commenced. Merely because the plaintiff has not lead the evidence, it can not be said that trial is not commenced.

5. Further, though trial is commenced but it is necessary to see whether the amendment is necessary and whether it will change the nature of suit. So far proposed amendment is concerned it will not change the nature of suit nor it will cause any prejudice to the

defendants. Moreover, the proposed amendment will be helpful to decide the rights of the parties on the merit.

6. Considering the delay in filing the application it is necessary to award the costs to defendant No.3 to 5. Hence, I pass the following order-

Order

1. Application is allowed subject to costs of Rs.900/- to be paid to defendant No.3 to 5.
2. The plaintiff shall pay the costs and carry out the amendment and file the amended plaint for the Court and copies thereof for the defendants.

Date:- 19/01/2023.

(R.P.Kulkarni)
2nd Jt. Civil Judge (Sr.Dn.),
Washim.

CERTIFICATE

I affirm that the contents of this PDF file order are same word to word, as per original judgment.

- 1) Name of Stenographer :- S.V.Dere (Stenographer-III)
- 2) Name of Court :- 2nd Jt.Civil Judge (S.D.), Washim.
- 3) Date :- 19/01/2023.
- 4) Order signed by the
presiding officer on :- 19/01/2023.
- 5) Order uploaded on :- 19/01/2023.