

ORDER PASSED BELOW EXHIBIT-115 IN R.C.S. No.109/2016**Panjab Vs. Dilip & Others**

(CNR No.MHWS020003032016)

Defendant No.2 has filed this application under Order 6 Rule 17 r/w. 151 of Code of Civil Procedure. It is submitted that he has submitted his written statement and resisted and denied the contents of the plaint. He submitted his averments in the written statement. It is submitted that while submitting the written statement the revenue documents like Davya Ujvya Panachi Nakal, Tippan Utara and map of field survey No.138 of Shelu Khadse was not in hands of the defendants. Further crop statement or field survey No.138 was not with the defendant. These documents have been received to the defendants on 18/12/2023 during the pendency of this suit and filing of the written statement. According to the said documents the alleged way through Sr. No.138/2 was removed and way has been granted through Sr. No.138/3 of Shelu Khadse as per the order of revenue officers. It is therefore, necessary to amend the written statement by adding para No.27 in the written statement. Hence, prays to allow the application.

2] Plaintiff has filed say at Exh.116. It is submitted that he has already filed his affidavit examination-in-chief on 28/02/2023. Thus, the trial is already commenced. Hence, now the permission can not be granted to the defendant to amend his W.S. In the present case there is nothing brought on record as regarding due diligence. The defendant No.2 has no any right to file this application and prolong the matter. The case of the plaintiff is against the defendant No.1. It is submitted that the scope of the suit is limited and Hon'ble Court is not vested with any jurisdiction to decide the correctness of Tipan Utara or any government map and can not give any finding overriding the present

Tipan Utara and present government road map passing through survey No.138. The defendant No.2 by propose amendment is changing the nature of his own pleading. It is well settled that evidence need not be pleaded. The copy of order of SDO in revenue case is not filed on record. There is no any evidence of pleading the execution of the said order and use of the road through the land of plaintiff. The application is completely barred by limitation. Therefore, prays to dismiss the application with costs of Rs.5000/-.

3] Following points are arise for my determination, same are reproduced below along with my findings thereon-

Sr. No.	Points	Findings
1]	Whether permission can be given to plaintiff to amend the para No.5 in the plaint as prayed ?	In the Affirmative.
2]	What Order ?	As per the final Order.

REASONS

AS TO POINTS NOS.1 AND 2-

4] Heard both the sides. It is the contention of defendant that the defendant No.2 has submitted his written statement. However, while submitting the say the revenue record and map of field survey No.138 was not with him. The said documents were received by him on 18/12/2023 during the pendency of this suit. After receipt of said documents the fact came to the knowledge of defendant that alleged way to survey No.138/2 was removed and way has been granted to survey No.138/3. Therefore, the defendant wants to prove the said fact by adding para No.27 in his W.S. Hence, the defendant prays to grant the permission to amend his written statement.

5] On the other hand it is the contention of plaintiff that he has already filed his affidavit examination-in-chief on 28/02/2023. Thus, the trial is already commenced. Hence, now the permission can not be granted to the defendant to amend his W.S. It is also submitted that the defendant No.2 has filed this application only to prolong the case. The defendant No.2 by way of proposed amendment is changing nature of his own pleading. The defendant has not produced copy of order of SDO in case No.1/55/1935-36. Therefore, application can not be allowed.

6] Admittedly, the plaintiff has filed his evidence by virtue of affidavit of examination-in-chief later on the defendant No.2 has filed this application. Certainly, the application for amendment need to be filed prior to commencement of trial. However, if any party received some information or document later on he is entitled to submit the application for amendment of his pleading. In the present case the defendant No.2 has mentioned in the present application that he received the documents i.e. revenue record after submitting his W.S. Therefore, he has filed the present application. It is the contention of defendant that he has received the said documents on 18/12/2023. It means that the defendant has received the said documents after filing W.S. Therefore, I found substance in the contention of defendant that he got knowledge of the facts mentioned in revenue record after receipt of the same. Considering the aspect, I came to the conclusion that the defendant No.2 has got the knowledge of facts after filing W.S. permission can be granted to him to amend his pleading. So far as the contention of plaintiff that the defendant No.2 is changing the nature of his pleading is concerned, considering the opposed pleading of defendant No.2 certainly defendant No.2 is not changing his pleading. On the other hand he wants to bring on record the facts regarding order of SDO. Hence, permission can be granted to the defendant No.2 to

amend his pleading accordingly. Therefore, I pass following order-

ORDER

- 1] Application is allowed.
- 2] Defendant No.2 to carry out the amendment within the stipulated period.

Washim.
Date:- 09/10/2025.

(S. S. Sahasrabudhe)
Civil Judge (Sr. Div.), Washim.

CERTIFICATE

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

- 1) Name of Stenographer :- S. V. Dere (Stenographer G-III)
- 2) Name of Court :- Civil Judge (S.D.), Washim.
- 3) Date :- 09/10/2025
- 4) Order signed by the
presiding officer on :- 09/10/2025
- 5) Order uploaded on :- 09/10/2025