

ORDER PASSED BELOW EXHIBIT-58.

1. This application is filed by defendant No.5 for amendment in written statement under Order 6 Rule 17 of the Code of Civil Procedure.

2. Defendant No.5 contended that, he has filed his written statement but due to over sight he could not plead as to how the S.D.O. order is legal and how the suit is not tenable. Hence, prayed that, proposed para No.4-A be allowed to be added in the written statement.

3. Plaintiff resisted the said application and filed his say. He contended that, defendant No.5 is not the neighboring person of the suit land as well as defendant No.5 has no need to cultivating the intention of defendant No.5 is to prolong the matter and hence prayed that the application be rejected.

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 suit filed by plaintiff for declaration and mandatory injunction. In the said suit defendant No.5 had appeared and filed his written statement at Exh.42. Vide this application defendant No.5 intends to add para 4-A to the said written statement. It is the contention of the defendant No.5 that, the proposed amendment is only in the form of explanation.

6. I perused the proposed amendment. It is only in the form of explanation for allowing the order passed by S.D.O.. Moreover, the yardstick for allowing the amendment of plaint and amendment of written statement is different. The Court has to be liberal in allowing amendment in the written statement. The proposed amendment is nothing but in the form of explanation and hence I am of the opinion that it will help both the parties. Therefore, the application of defendant No.5 for amendment in written statement for adding para 4-A needs 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.58 is allowed.
02. Defendant No.5 to carry out the amendment in the written statement on or before next date and file the amended written statement within fifteen days from the date of the order.

Date : 20/03/2023

(Nayomi P. Pawar)
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	: Civil Judge (S.D.), Washim, Dist.Washim.
Date	: 20.03.2023.
Order signed by the presiding officer on	: 20.03.2023.
Order uploaded on	: 24.03.2023.
Order uploaded by	: S. P. Kale (Stenographer G-III)