

ORDER PASSED BELOW EXHIBIT-46 IN R.C.S. No.23/2012**Sau. Lalita Agrawal Vs. Gopal Agrawal & Others**

(CNR No.MHWS020009102010)

Plaintiff has filed this application under Order 6 Rule 17 of Code of Civil Procedure. It is submitted that the plaintiff filed the civil suit for possession, damages and permanent injunction against the defendants. The defendant No.1 illegally inducted the defendant Nos.2 to 5 without any right or authority. During the pendency of the suit the defendant Nos.2 to 5 left the rooms which were occupied by them through the defendant No.1. The defendant Nos.2 to 5 are not residing in the suit premises. Therefore, it is necessary to bring the fact by amending the plaint. If the application is allowed it will not change the nature of suit. Hence, prays to allow the application.

2] Defendant No.1 has filed say at Exh.47. It is submitted that the application is strongly opposed. It is submitted that as per the Hon'ble Apex Court there can not be any amendment after framing of the issues. The said directions are in the matter of Vidyabai & Others Vs. Padmalatha & Anr. reported in AIR 2009, Supreme Court 1433. In the present case the trial is ended for final argument. Further the plaintiff must be aware of legal position that if during pendency of suit any transaction about immovable property took place then the Doctrine of Les-Pendency formulated u/s.52 of T.P. Act come in operation and judgment is binding to the beneficiaries of the transfer. There is no any day, date of vacation of the premises mentioned. The amendment pleadings are vague. As per the plaintiff that he is in possession of entire suit house, therefore, there is no any needless to amend the plaint. Hence, prays to reject the application.

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 plaintiff that while filing the suit he has filed the same against the defendant Nos.1 to 5. However, during pendency of the suit the defendant Nos.2 to 5 have left the suit premises. So, the plaintiff wants to bring this fact on record. For that purpose he want to amend Para No.5 accordingly. Hence, he prays to permit him for the said amendment.

5] Admittedly, the plaintiff has filed the suit against defendant Nos.1 to 5. It was the contention of plaintiff that these defendants were inducted by the defendant No.1 illegally and now the plaintiff wants to plead that the defendant Nos.2 to 5 have left the rooms which were occupied by them through the defendant No.1. As per the plaintiff this is subsequent to them during the pendency of the suit therefore, he may be permitted to amend his pleading and to bring this fact on record. On the other hand it is the contention of defendant No.1 that he is having strong objection because after framing of issues pleading can not be amended.

6] It appears that the plaintiff wants to bring on record the event which happened during pendency of suit. Therefore, certainly, it is necessary for the plaintiff to amend his pleading. So far as the submission of the defendant that permission can not be granted to amend the pleading after framing of issues is concerned. Admittedly, my learned predecessor has framed the issues on 22/11/2014 and the trial of suit is already commenced. However, that can not be a ground to reject the application because by virtue of proposed amending the plaintiff wants to bring the facts on record which are happened during the pendency of this proceeding. Therefore, considering this fact, I came to the conclusion permission as sought is not only just and proper but it is essential to decide the controversy between the parties. Therefore, I came to conclusion that permission can be granted to the plaintiff to amend the pleading as sought. Hence, I answer point No.1 in the affirmative and in answer to point No.2 proceed to pass following order

ORDER

- 1] Application is allowed.
- 2] Plaintiff to carry out the amendment within the stipulated period.

Washim.
Date:- 03/10/2025.

(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 :- 03/10/2025
- 4) Order signed by the presiding officer on :- 03/10/2025
- 5) Order uploaded on :- 03/10/2025