

**ORDER PASSED BELOW EXHIBIT-41 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 r/w. 151 of Code of Civil Procedure. It is submitted that the plaintiff filed the civil suit for possession and damages against the defendants. It is submitted that the two rooms which were rented by plaintiff to Narayan Solanke who was running his computer center situated on eastern side on first floor of subject matter of the building, are vacated by him before about six months and during the pendency of suit the defendant No.1 has taken its possession illegally. So also, the defendant No.1 took possession illegally of two rooms adjacent on western side of this eastern side of two rooms which were in possession of Prakash Murlidhar Agrawal. Therefore, it is necessary to amend in the para No.2 of the plaint. It is also submitted that if the application is allowed it will not change the nature of suit. Due to change of circumstances and illegal act it is necessary to amend the plaint. Hence, prays to allow the application.

2] Defendant No.1 has filed say at Exh.42. It is submitted that the application is strongly opposed. It is submitted that after commencement of trial application for amendment of the plaint is not permissible. The said application is nothing but to filing up the lacuna in the admissions given by the plaintiff in her cross examination and the same is not permissible. Hence, prays that the application is illegal and liable to be dismissed.

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 the defendant No.1 has taken possession illegally adjacent on western side which was in possession of Prakash Agrawal. The defendant No.1 has bring this act during the pendency of the suit. Therefore, the plaintiff wants to amend his pleading accordingly. On the other hand as per the defendant the plaintiff has filed this application after commencement of the evidence. Therefore, this application is not tenable.

5] Certainly the plaintiff has filed this application after commencement of the trial. However, only on that ground it will just and proper to reject the application because by virtue of proposed amending the plaintiffs wants to bring on record the facts which happened during pendency of proceeding. Therefore, permission to amend the pleading can be granted. 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 :- 06/10/2025