

	<u>ORDER PASSED BELOW APPLICATION EXH. 39</u> <u>IN REGULAR CIVIL SUIT No.50/2025</u> <u>(CNR No. MHWS050002972025)</u>
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1) This application is submitted by plaintiffs under Order VI, Rule 17 of Civil Procedure Code, 1908 for making amendment in the plaint.

2) Perused application and say submitted by advocate for defendant no.4 on said application. This suit proceeded exparte against defendant no.1 and 2 as per order dated 17.6.2025 passed below Exh.1. Heard advocate Shri. N.M.Muley for plaintiffs.

3) After hearing argument of advocate following points arise for my determination and I have recorded my findings thereon with the reasons as follows :-

Sr. No.	Points	Findings
1)	Whether plaintiffs prove that, proposed amendment is necessary for the purpose of determining the real questions in controversy between the parties ?	..In the affirmative
2)	What order ?	... As per final order.

: **REASONS** :

As to point no.1 :-

4) Advocate for plaintiffs have submitted that,

plaintiffs have instituted this suit for declaration and perpetual injunction. Total area of suit property land Gat No.67 is of H 03 – 32 R but in plaint due to oversight it was mentioned as H 01-21 R, so it is necessary to delete 01-21 R by writing 03-32 R. Also, L.R of rupees 07=26 requires to be deleted by writing 09=95. Also it is required to add in paragraph no.1 of the plaint that, out of Gat no.67 area of 00-90 R is recorded in the name of plaintiffs namely Deokabai Wd/o Vinod Gawande. Trial of this suit is yet not commenced. Said amendment is necessary for deciding this suit on merit and due to that amendment, nature of this suit will not be changed. So, the amendment application submitted by plaintiffs may kindly be allowed.

5) On the contrary, advocate for defendant No. 4 had submitted his say contending that, the application is opposed.

6) Record and proceedings shows that, plaintiffs have instituted this suit for declaration and perpetual injunction. On perusal of 7/12 extract of land Gat no.67 it shows that, total land of said Gat no.67 is H 3.32. 00 R and assessment value of said land is of Rs. 9.95 paise. Hence, the amendment which plaintiffs intends to make in paragraph no.1 of the plaint is necessary.

7) In this suit, an application for temporary injunction Exh.5 was decided as per order dated 21.6.2025 and then issues were framed at Exh.35 on 21.6.2025. This suit is pending for adducing evidence by plaintiffs. But, till today plaintiffs not

submitted their evidence affidavit. So, it can be said that, trial of this suit is yet not commenced. It is well settled that, when trial of a suit is not commenced and if at that time an amendment application is submitted, then, Court should take liberal view while considering said amendment application.

8) After considering total area and assessment of said land of suit property land Gat no.67, plaintiffs are entitled to make necessary amendment in respect of it as prayed in the present application. Though, plaintiffs were permitted to make necessary amendment as mentioned in the application, still due to that amendment, nature of suit will not be changed. Furthermore, defendant no.4 has an opportunity to make necessary consequential amendment in his written statement at Exh.26.

9) After considering all above facts, it can be said that, plaintiffs have submitted this amendment application before commencement of trial and plaintiffs have prove that, proposed amendment is necessary for the purpose of determining the real questions in controversy between the parties and there is merit in the submission of advocate for plaintiffs in that regard. Hence, considering all above facts, submissions of advocate for plaintiffs and 7/12 extract of land Gat No.67 collectively I answer point no.1 in the affirmative and proceed to pass following order,

ORDER

- 1] Present amendment application submitted by plaintiffs is allowed and plaintiffs to carry out amendment as mentioned in the application.
- 2] As prayer of amendment in plaint is allowed, the original pleading should incorporate the changes in a different ink or an amended pleading may be filed wherein with the use of highlighter or by underlining in red the changes made may be distinctly shown.
- 3] In view of Order 6, Rule 18 of Code of Civil Procedure, 1908, plaintiffs to carry out necessary amendment within a period of 14 days from today and submit amended copy of plaint within stipulated time.
- 4] After filing of amended copy of plaint in this suit, within 15 days defendant no.4 may submit an application for making necessary consequential amendment in his written statement and if he is not willing to make necessary consequential amendment, then defendant no.4 to submit a pursis to that effect.

Place : Mangrulpir
Date : 4.10.2025.

(D. B. Hambire)
C.J.S.D.,Mangrulpir

I affirm that the contents of this P.D.F. file order are same, word to word, as per the original order.

Name of Stenographer	:	C.R.Gadge
Name of Court	:	Shri. D. B. Hambire, CJSD Mangrulpir
Date of Decision	:	4.10.2025
Order signed by the P.O. on	:	4.10.2025
Order uploaded on	:	4.10.2025