

MHWS100015832022 	<u>ORDER BELOW EXH.11 IN RCS NO.96/2022</u> Vandana Motiram Katekar VS Motiram Kundalik Katekar Passed on 25th July, 2024
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01. This is an application filed by the plaintiff to amend the plaint under Order VI Rule 17 of the Code of Civil Procedure, 1908 (In short for “CPC”).

02. It is the contention of the plaintiffs that, they have filed the suit for partition and separate possession. At the time of filing of the suit, they have no knowledge about the four boundaries of the suit property. She is residing far way from the suit property. Thus, they have not mention the four boundaries of the suit property. In order to partition of the suit property and the proper identification, four boundaries are necessary. Thus, in para No.1 of the plaint, they have to mention four boundaries of Gat Nos.213 and 23. If the application is allowed, then the nature of the suit property will not change. Hence, prayed to allow the application.

03. The defendant has filed his say and submitted that, there is no plausible reason to file the present application. The suit is filed in the year 2022. Thereafter, the matter is posted for dismissal order. This application is filed only to harass him. Hence, prayed to reject the application with costs.

04. Heard both the sides. Considering the application, say and oral arguments advanced by both sides, the following points are set

out below with my answers against each :-

<u>NO.</u>	<u>POINTS</u>	<u>FINDINGS</u>
1.	Whether the amendment application deserves to be allowed ?	...Yes...
2.	What order ?	Application is Allowed.

REASONS

AS TO POINT NOS.1 AND 2 :-

05. This is the suit for partition and separate possession. The defendant has not filed his written statement. The trial is not commenced in this case. On perusal of the plaint it appears that, the four boundaries of the suit property are not mentioned in para No.1 of the plaint. The four boundaries are necessary for proper identification of the suit property. No prejudice would cause, if the application is allowed. The reason of the plaintiff appears to be plausible. The amendment is bona-fide in nature. If the application is allowed then no prejudice would be caused to the defendant. The four boundaries are necessary to determine the real question of controversy. Thus, application deserves to be allowed upon certain conditions. In view of the above discussion, in answer to point No.1 in affirmative and in answer to point No.2, I pass the following order :-

ORDER

1. Application is allowed subject to costs of Rs.500/- (In words Five Hundred Rupees only).

2. Plaintiffs to amend the plaint within fourteen (14) days from the date of this order.
3. Plaintiffs shall provide amended plaint copy to the defendant.
4. Cost is condition in precedent.
(Dictated and pronounced in open court)

Place : Malegaon.
Date : 25.07.2024

[Pravin U.Kulkarni]
Jt. Civil Judge (J.D.) Malegaon
Dist. Washim.

CERTIFICATE

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

Name of the Stenographer : **Shivam B. Patange (L.G.)**

Court & Judge Name : P.U.Kulkarni
Jt. C.J.J.D. & J.M.F.C., Malegaon.

Date of Order : 25.07.2024

Order signed by the
Presiding Officer on : 26.07.2024

Order uploaded on : 26.07.2024