

IN THE COURT OF JOINT CIVIL JUDGE JUNIOR
DIVISION, DIGRAS.

[Presided over by Nitin Dhoke]



R.C.S. 68/2024

Subhash -Vs- Vijay & Ors

[C.N.R.No.: MHYA13-000559-2024]

ORDER BELOW EXH.21

(Passed on: 28.11.2024)

This is an application filed under Order VI Rule XVII of Civil Procedure Code, 1908 [**Hereinafter referred to as C.P.C. in short**] in a suit for Declaration, Partition, Separate Possession & Permanent Injunction.

2. It is contention of the applicant/plaintiff that, he has filed an application under O.I Rule 10(2) of CPC and if the event of said application being allowed, he has to carry out the amendment in plaint with respect to the incidental changes therein. Therefore, he has prayed to allow the amendment application and make necessary amendment in plaint. Since, the matter is just filed no say of defendant on record. Hence, the application needs to be adjudicated on merit.

3. Perused application. Heard the Ld. Counsel for plaintiff.

4. For ready reference the bare text of **Order VI Rule XVII of CPC** is enumerated as under:

17. Amendment of pleadings: *The Court may at any stage of the proceeding allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties.*

Provided that, no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that, in spite of due diligence, the party could not have raised the matter before the commencement of the trial.

5. Perusal of the brief reveals that, this court has allowed the application under O.I Rule 10 (2) of CPC and directed to add the names of defendant No.24 and 25 in plaint. In the said context, certain changes needs to be done by plaintiff in his Claim, Paragraph No.1, 3,11 and in Paragraph B. In my view, the amendment in said paragraphs is necessary to identify the pleading of plaintiff in real sense. Therefore, in my view the application needs to be allowed. Hence, order:

: ORDER:

1. Application is allowed.
2. No order as to costs.
3. Plaintiff to carry out the necessary amendment within 14 days from today and also file the amended copy of plaint.
4. Order passed in open court.

Dt. 28/11/2-24
Digras.

[Nitin Dhoke]
Jt. Civil Judge, Junior Division,
Digras.