

MHYA150014802023



ORDER BELOW EXH.13 IN R. C. S. NO. 54/2023
(Passed on 08.10.2025)

This is an application filed by the plaintiff under Order 6 Rule 17 r/w section 151 of the Code of Civil Procedure for amendment.

2. The plaintiff submitted that, the suit filed for declaration and injunction. In pleading the plaintiff has specifically averred about the same. But, due to typographical mistake in prayer clause the plaintiff failed to mention about the prayer of permanent injunction as well as in para No.6 due to typing mistake the area of suit field Gat No.58 has wrongly mentioned. Hence, the plaintiff wants to amend the plaint. Therefore, the plaintiff pray to allow the application.

3. Defendant No. 1 to 4 filed say and submitted that, considering the nature of the suit and interest of the parties to the suit as well claim of the plaintiff and there were so many coincidence of typographical mistake is seems to be intentional. Hence, pray to reject the application with heavy costs.

4. The suit summons served to defendant No. 5 and 6 but, they not appeared. Hence, I passed order below Exh.1 and suit proceeded ex-parte against defendant No. 5 and 6.

5. Considering the contentions in the application and submissions of rival parties, following points arise for my determination which are produced along-with my findings thereon, for the reasons stated as under :

Sr.No.	POINTS	FINDINGS
1.	Whether the plaintiff proves that proposed amendment is necessary for the purpose of determining the real question is controversy between the parties ?	Yes.
2.	Whether the proposed amendment will change the nature of suit?	No.
3.	What order ?	As per final order.

REASONS

As to point Nos. 1 & 2 :-

6. As these points are closely interlinked, it shall be more appropriate to discuss them together.

7. At the outset, it is worthwhile to discuss the provisions of Order VI Rule 17 of the code.

Order VI Rule 17 : Amendment of Pleadings : The Court may at any stage of the proceedings 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 trial.

8. Above said provisions gives power to the civil court to allow parties to alter, amend or modify the pleadings at any stage of proceedings. But the court will allow amendment only if this amendment is necessary to determine the controversy between the parties. The purpose of this provision is to promote ends of justice and not to defeat the law.

9. Heard both side, perused the record. It is seen that, the suit filed for declaration and permanent injunction. Matter is at stage of evidence.

10. By way of the amendment the plaintiff wants to insert prayer of permanent injunction in prayer clause and the plaintiff wants to insert words "0H and 39.50R" instead of the word "0.39H. and 50R". Defendant No. 1 to 4 stated that the mistakes are intentional.

11. It is a necessary to mention here that, the plaintiff wants to add the prayer of permanent injunction in the prayer clause.

12. On perusal of the plaint it appears that, there is a

pleading in the plaint regarding permanent injunction. Also, the court fee for the prayer for injunction has also been paid by the plaintiff.

13. If the injunction sought is based on new and distinct cause of action, it can not be allowed insert such prayer by way of amendment. If the present application allow it will not prejudice the other side. Furthermore, the original nature of suit and basic structure of the suit will not change and remains consistent. It appears that, the above said amendment is necessary for complete and final decision on the matter in controversy and to avoid multiplicity of proceeding.

14. In such circumstance, in the light of aforesaid discussion and considering the stage of the suit. I am of the opinion that, a relief of permanent injunction can be added by way of amendment in the prayer clause of the plaint.

15. The plaintiff also wants to insert words "0H and 39.50R" instead of the word "0.39H. and 50R". It also appears that, this error is a typographical mistake.

16. The reason for file this application appears to be bonafide. I find that no prejudice will be caused to the defendants, if proposed amendment is allowed nature of suit will not change. It is appears that, the proposed amendment is essential to decided rights of the parties, and the controversy between the parties, and to avoid multiplicity of proceeding.

17. The present suit is filed on 06/11/2023 and this

..5..

R. C. S. No. 54/2023
Akash V/s. Smt. Nanda and ors.

application of amendment filed on 15/09/2025. So far as, delay in filing said application is concerned, by awarding costs, it will suffice the purpose. Accordingly, I answer point No.1 in the positive and point No. 2 in negative.

As to point No. 3 :-

18. Hence, on the backdrop of above discussion and in answer to this point, I pass the following order :

ORDER

1. Application at Exh.13 is allowed subject to cost of Rs. 700/-(Rupee Seven Hundred only) be paid to the defendant on or before next date.
2. The plaintiff shall carried out proposed amendment on or before next date.

(Order pronounced in the open Court.)

Ner,
Date : 08.10.2025

(G. C. Fulzalke)
Civil Judge, Junior Division,
Ner, Dist. Yavatmal.

..6.. R. C. S. No. 54/2023
Akash V/s. Smt. Nanda and ors.

CERTIFICATE

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	:-	Ku. B. N. Nare (Grade-III)
Court	:-	Civil Judge Jr. Dn., Ner.
Date	:-	08/10/2025
Order signed by		
the Presiding Officer on	:-	08/10/2025
Order uploaded on	:-	08/10/2025