

Order Below Exh.22
(Passed on this 18th day of April, 2019)

1. Read the application. Perused the say and record. Heard the learned Advocates for the respective parties.

2. According to plaintiff, the present suit is filed for declaration and permanent injunction and there is description of the property in the paragraph no.1. Besides, one map is filed as a part of the suit and compound wall is shown by red colour in the said map. It is mentioned by the plaintiff that the defendants are going to demolish the said wall illegally and the prayer is made by the plaintiff for not demolish the same. Notice was also sent to the plaintiff by defendant for that compound wall. It is pleaded by the defendant that plaintiff is making an encroachment by way of that compound wall. Despite the above situation, the said compound wall should have been the subject matter of the suit, but inadvertently the entire property is mentioned as suit property. Therefore, plaintiff is proposing to mention the said compound wall and the land denoted by the red colour in map to be the suit property and also proposing to amend to add Gram Panchayat, Khapari as defendant no.1. According to plaintiff, evidence is not adduced till today and therefore, opportunity of cross-examination will be available to defendant and there will no change in the nature of the suit. The said amendment is necessary for the just decision of the suit. Hence the application.

3. Defendants objected the application on the ground that by way of the proposed amendment plaintiff is trying to change the nature of suit and change the prayer of the suit. It is also contended that the suit is fixed for evidence and therefore, the proposed amendment cannot be allowed. It is

also contended by the defendants that on 05/03/2010 exh.05 was allowed and therefore the said application cannot be granted. It is next contended by the learned Advocate for defendants that in case the amendment is allowed, then cost of Rs.500/- be imposed.

4. After perusal of the record, it reveals that there is a one map filed along with the plaint and there is a mention of said map in the plaint and the dispute between the parties is relating to the alleged compound wall made by the plaintiff. Therefore, the said compound wall should have been the subject matter of the suit but it appears that the entire property is referred as the suit property. It is true that the issues are framed in the present suit but the proposed amendment does not change the nature of the suit. Besides, plaintiff is proposing to add Gram Panchayat, Khapari as defendant no.1. Both these amendments are necessary for the just decision of the case. Hence, the present application for the amendment is allowed subject to cost of Rs.200/- payable to defendants.

Date: 18/04/2019
Place: Ghatanji

(C. N. Ondare)
Civil Judge Jr.Dn., Ghatanji.