

**ORDER BELOW EXHIBIT 39 IN RCS NO. 15/2022**

Defendant filed instant application under order 06 Rule 17 of C.P.C. for amendment to the written statement.

2. The present suit is filed for declaration and injunction. It is the specific contention of the defendant that the, plaintiff has amended the plaint to the extent of deceased Bhimabai Aatram was living at the mercy of plaintiff and accordingly amendment to that extent was carried out. Accordingly, defendant is entitled for consequent amendment in his written statement to that extent. Hence , present application is filed.

3. Heard both the sides. The following points are raised for determination along with finding and the reasons thereon are as under-

| <b><u>SR.</u></b> | <b><u>POINTS</u></b>                                                                                                              | <b><u>FINDINGS</u></b> |
|-------------------|-----------------------------------------------------------------------------------------------------------------------------------|------------------------|
| <b><u>NO.</u></b> |                                                                                                                                   |                        |
| 1]                | Whether the proposed amendment is necessary for the purpose of determining the real questions in controversy between the parties? | Yes                    |
| 2]                | What order ?                                                                                                                      | Application<br>allowed |

## **REASONS**

### **POINT NO. 1**

4. Read the application and reply to it. Also perused the plaint and written statement.

5. In view of Order 6 Rule 17 of Code of Civil Procedure amendment can be allowed if necessary for the purpose of determining the real questions in controversy between the parties. However, proviso to the said rule restricts for amendment if applicant failed to show that in spite of due diligence, he could not have raised the matter before commencement of trial. In the present case, the plaintiff has amended the plaint to the extent of relation between the plaintiff and deceased Bhimabai. Accordingly, the defendant has right to amend the written statement to the effect of denial or additional grounds of defence. No prejudice would be caused other sides if application is allowed. Hence, for the reasons recorded as above, I answer Point No. 1 in affirmative and in answer to point No. 2, I pass the following order;

## **ORDER**

The application is allowed. The defendant shall carry amendment in the written statement within 14 days and served the copy of amended written statement to the plaintiff.

Zari-jamni  
Date : 14.10.2025

S. S. Kale  
Civil Judge, Jr. Div., Zari-Jamni