

ORDER BELOW EXH. 103

Perused the application and say filed by defendant nos. 1/A to 1/F. Heard learned advocates at length. Perused all relevant documents.

This application is filed by plaintiff u/O.6 R.17 of C.P.C.1908 for permission to amend the map attached with the plaint. The defendant nos. 1/A to 1/F have objected to this application by filling say.

The Ld. Advocate for the plaintiff argued that the map annexed with the plaint is a part and parcel of the plaint, while preparing the said map of suit property, due to diagrammatical error the area in possession of defendant no.2 out of land Sy. No.345 was not shown and the land of defendant no.2 remained to be shown which is on eastern-southern corner of land bearing Sy. no.345, the proposed amendment is necessary to decide the matter once for all and it will not change the nature of the suit and therefore the plaintiff is seeking permission to amend the plaint by correcting the said map of the suit property and description as shown in the map annexed with the present application. Per contra the Ld. Advocate for the defendant side submitted that the plaintiff has prepared incorrect map and therefore the application is liable to be rejected.

In support of contents of present application an affidavit of the plaintiff is filed at Exh.104. Though the defendant no. 1/A to 1/F have objected this application, it is pertinent to note

that the present suit is filed for declaration, injunction and for fixation of boundary marks of the suit property which is an immovable property. The plaintiff has filed map of suit property i.e. Sy. No.345 which is a part and parcel of the plaint. The plaintiff has mentioned in the affidavit at Exh. 104 that while preparing the said map of suit property, due to diagrammatical error the area in possession of defendant no.2 out of the land was not shown and the land of defendant no.2 remained to be shown which is on eastern-southern corner of land bearing Sy. No.345 and therefore he is seeking permission to amend the plaint by correcting the said map of the suit property and description as shown in the map annexed with the present application.

The contents of the application are supported with affidavit. It is not contention of the defendant side that the trial of this suit has been commenced. There is no material on record to conclude that there is a bar of Proviso to Order 6 Rule 17 of C.P.C. to this application. It is well settled law of that the Court should take liberal view while granting such amendment. The proposed amendment is necessary in order to settle actual controversy between both parties completely and to avoid multiplicity of proceedings. It will not result in change in the nature of suit. In such circumstances, the plaintiff will suffer irreparable loss if present application is rejected. The grounds mentioned by the defendant nos. 1/A to 1/F in the say are not sufficient to reject this application. No serious prejudice will be caused to the defendant nos. 1/A to 1/F, if present application is allowed subject to cost.

Considering the nature of the suit, in order to settle actual controversy between both parties completely and to avoid multiplicity of proceedings, it will be just and proper to allow the plaintiff to carry out the proposed amendment as prayed subject to condition in pay cost to the defendant nos. 1/A to 1/F who have contested this application by filing say. Considering all facts and circumstances, it will be just and proper to allow this application accordingly.

Therefore, in view of above discussion, in the interest of justice, I pass the following order.

O R D E R

1. Present application is allowed in following terms.
2. The plaintiff is permitted to carry out amendment as prayed in the application subject to condition that he shall pay total Rs.1,200/- as cost to the defendant nos. 1/A to 1/F on or before next date without fail. He is further directed to submit amended copies after carrying out the amendment.

Sd/-

Dt. 11.06.2025

(Sachin S. Patil)
2nd Jt. Civil Judge, S.D.
Osmanabad.