

ORDER BELOW EXH. 210 IN
SPECIAL CIVIL SUIT NO 385/2001

Jaydeep Pukhraj Jain Vs. Mahipati Rambhau and ors.
(CNR No.MHPU02-000462-2000)

This is application under Order 6 Rule 17 of Code of Civil Procedure for amendment in the plaint. It is contended that the plaintiff recently came to know from mutation entry no. 18090 of Village Charholi Budruk, Taluka Haveli, District Pune that suit property has been mutated in the name of Ajeenkya D.Y. Patil Infra Pvt. Ltd. and thereby name of defendant no. 24 – Dr. D.Y. Patil Education Enterprises Pvt. Ltd. has been deleted from 7/12 extract. Therefore, due to such subsequent event, the plaintiff required to amend the plaint and to insert name of Ajeenkya D.Y. Patil Infra Pvt Ltd. in the suit as defendant no. 31 and deleting the name of defendant no. 24 - Dr. D.Y. Patil Education Enterprises Pvt. Ltd. and necessary amendment as mentioned in para no. 5 to 10 of the application. The proposed amendment is formal in nature and same does not change the nature of the suit. Therefore, the defendants should not be taken by surprise. Hence, no prejudice would cause to the defendants. Moreover, during the pendency of the suit, the defendants with collusion have committed mistake illegally. Hence, the plaintiff moved this application for amendment for incorporating contents as stated in the application.

2. Defendant no. 24 filed reply at Exh. 214. Defendant no. 24 denied the contentions in the application. It is further submitted that issues are framed on 20.09.2017 and suit was posted for evidence.

However, instead of filing affidavit of evidence, the plaintiff has moved this application with sole intention to prolong the hearing of the suit. Further, the defendant admitted deletion of name of defendant no. 24 and sanction of mutation entry no. 18090. He further admitted that now the suit property is standing in the name of Ajeenkya D.Y. Patil Infra Pvt Ltd. However, they denied that revenue authorities illegally mutated said entry. It is contended that due to change in the name of the defendant company, mutation entry as been sanctioned. There is no change in the ownership but merely there is change in the name of company. On these grounds, defendant no. 24 prayed for rejection of application. The other defendants have not filed their reply.

3. Heard advocate for the parties.

4. The present suit is filed for specific performance of the contract in respect of suit property. Issues are framed on 15.07.2017. However, the plaintiff has not filed affidavit of evidence. The trial of the suit is not commenced. It is the contention of the plaintiff that during the pendency of the suit on 16.12.2017 name of Ajeenkya D.Y. Patil Infra Pvt. Ltd. came to be mutated to the suit property vide mutation entry no. 18090 by deleting the name of defendant no. 13 - D.Y. Patil Education Enterprises Pvt. Ltd. Hence, the plaintiff want to incorporate contentions to that effect by way of amendment in the plaint. Defendant no. 24 in his reply admitted sanction of mutation entry no. 18090 and entry of the name of Ajeenkya D.Y. Patil Infra Pvt. Ltd. to the suit property. Thus proposed amendment is relating

to the subsequent event during the pendency of the suit. It appears that proposed amendment is just and necessary for the complete and effective adjudication of the dispute between the parties. There will be no change in the nature of the suit, if amendment is allowed. Hence, no prejudice would cause to the defendants. Hence, considering the contentions in the application and facts of the case, application for amendment deserves to be allowed. Hence, I pass following order :

ORDER

1. Application is allowed.
2. The plaintiff to carry out amendment within week and furnish amended plaint.
3. Issue summons to newly added defendant.

Pune
Date : 17.02.2018

(S.H. Salunkhe)
9th Jt. Civil Judge, S.D., Pune

Certificate

I affirm that the contents of this P.D.F. File judgment / order are same word for word as per original judgment / order.

Name of Steno	:	Smt. B. J. Khandre, Grade II - Steno
Court Name	:	Shri. S.H. Salunkhe, 9 th Jt. CJSD Pune
Date	:	17.2.2018
Judgment / order signed by P.O. On	:	21.2.2018
Judgment / order uploaded on	:	21.2.2018