



MHNS190000112018

Reg. Civil Suit No.01/2018

Sahebrao Ramchandra Gayke

Vs.

Uttam Asaram Gayke & ors

ORDER BELOW EXH.22

1. The present application has been filed by the plaintiff under Order 6 Rule 17 of the Code of Civil Procedure for seeking an amendment in the plaint.

2. Heard Lrd. Adv. Shri. Ranware for the plaintiff at length. He submitted that the plaintiff has filed present suit for declaration and injunction. However, during the pendency of suit, defendant No.1 made a construction in property number 105. Therefore, plaintiff want to make amendment in that regard in his plaint. He has further submitted that proposed amendment will not change the nature of suit claim. To decide matter on merit, proposed amendment is necessary. Hence, prayed for allow the application.

3. Heard Lrd. Adv.Shri. Chavan for defendants at length. He has submitted that the reasons mentioned in application are not proper. The application is not proper. The nature of suit will be changed. Hence, prayed for rejection of application.

4. I Heard both sides at length. Perused record. Considering rival submissions, and contentions of both parties, following points arise for my determination, which I have recorded my finding along with reasons stated thereon.

Sr No.	Point	Findings
1	Whether proposed amendment is necessary?	Yes
2	What order ?	As per final order.

- REASONS -

POINT NO.1 :-

5. Heard both side. Perused the record. The present suit is for declaration and injunction. It is the contentions of the plaintiff that during the

pendency of suit, defendant No.1 started construction in property number 105. The plaintiff is master of his plaint. The present suit in respect of property No.105 and house No.95. By virtue of this proposed amendment, the plaintiff seeking mandatory injunction. In such circumstances, if application allowed, it will not cause hardship upon defendants. On other hand if application is rejected, it will cause hardship upon the plaintiff to put forth his case, if any. Hence, to decide the matter on merit, the application needs to be allowed. Accordingly, I answered point no.1 is in affirmative.

POINT No. 2 :-

6. Considering the discussion herein above and facts and circumstances, I pass the following order-

ORDER

1. Application is hereby allowed.
2. The Plaintiff is hereby allowed to carry-out proposed amendment within fourteen days from the date of this order.
3. The plaintiff is hereby directed to file amended copy of the plaint.

Place :- Yeola, Dist.Nashik.

Date :- 12/02/2021

[N.N. Chintamani]

Civil Judge, J.D. Yeola (Nashik)