

ORDER PASSED BELOW EXH.28 IN R.C.S.NO. 1/2018 .
CNR NO.MHOS130000012018

- 1) The present application is filed by plaintiff for amendment as per Order VI Rule 17 of the Code of Civil Procedure 1908.
- 2) The plaintiff is pleaded that, defendant No.2 has filed his written statement to the plaint on 13.4.2018. Defendant No.2 has mentioned in his written statement that defendant No.2 has not sold any land to defendant No.4. Defendant No.2 has given his land to his two sons and grand son in partition. The defendant No.2 also pleaded that, the suit land is not situated at village Girvali Tq. Bhoom. It is contended by the plaintiff that, due to typing mistake the land situated at village Girvali Tq. Bhoom is mentioned in the para No.3 of plaint. The plaintiff was not having knowledge about the partition. The plaintiff also pleaded that, he want to amend her plaint as per para No.4 of the application. Therefore, prayed for amendment as per prayer.
- 3) The defendant No.2 filed his say at Exh. 28 and took strong objection to this application. He further pleaded that, plaintiff is trying to amend the defects by amending the plaint and by this amendment the nature of the suit will be change. Therefore, he prayed for rejection of application. Alternatively he prayed for allowing the application on heavy cost.
- 4) Heard both parties advocate.
- 5) I took into consideration the pleading of the both sides and arguments of both advocates. The present suit is filed by plaintiff for partition and separate possession. The interest of the parties involved in the suit property. The suit is pertaining to the interest in the immovable property. If the son's of defendant No.2 are added as a party then it will help to determine the real controversy between the parties. As per order VI Rule 17 of The Code of Civil Procedure the Court has power to amend the

pleading at any stage of the proceeding by allow either party to alter or amend his pleading in such a manner and on such a terms as may be just. The Court shall allow the amendment in plaint as may be necessary for determining the real question in controversy between the parties. After considering the facts of the case and submission of both sides it is just and reasonable to allow this application. Hence, I proceed to pass the following order.

ORDER

1. Application at Exh. 28 is allowed subject to the Cost of Rs. 250/- (Rs. Two hundred fifty) to be paid to defendant No.2.
2. The plaintiff shall carry out the proposed amendment in the plaint and shall submit the amended copy on or before next date.

Date : 12/07/2018.

Sd/-
(H.S.Satpute),
2nd Jt. Civil judge Junior Division,Bhoom.