IN THE COURT OF SMALL CAUSES AT MUMBAI

ORDER BELOW EXHIBIT 42

IN

R.A.E. SUIT NO.762/1168 OF 2009

(CNR : MHSCA2-006670-2009)

Smt. Kshama Haresh Mehta and ors. ...Plaintiffs

V/s.

Zaver Iswar (deleted)
Smt. Bhikh Babu Solanki and ors. ...Defendants

Coram : Rutuja S. Bhosale,
Judge,
C. R. No.15
Date : 14.07.2023

ORAL ORDER :

This application is filed by plaintiff No.2 to condone the delay in amending the plaint.

2. According to the plaintiffs, as per order below Exh.40 plaintiffs have been directed to delete the name of defendant No.1(b) and add the name of legal heirs in place of defendant No.1(b). But they could not amend the plaint. There was a delay in carrying out the amendment within a stipulated time and hence the amendment could not be carried out within stipulated time. On last occasion it came to the knowledge that the amendment in Exh. 40 was not carried out. Hence this application.

3. Defendant has given reply overleaf and has taken strong

objection. As per the defendants, delay has not been explained with any sufficient cause to condone the same therefore, this application is strongly objected by the defendant.

4. Perused the application and say. Heard both learned advocates at length.

5. The proposed amendment is only to delete the name of defendant No. 1(b) and add names of heirs of defendant No. 1(b). The proposed amendment appears to be necessary for determining the real question in controversy between the parties. It is not likely to cause any prejudice to the defendants. Considering the above discussion and facts of the case, it will be appropriate to allow the application. Hence, the following order.

ORDER

1. The application is allowed.

2. The plaintiff shall carry out the amendment as prayed within 14 days from the date of this order.

RUTUJA SHRIKANT BHOSALE

Digitally signed by RUTUJA SHRIKANT BHOSALE
Date: 2023.07.17 12:21:43 +0530

(**Rutuja S. Bhosale**)
Judge, C.R.No.15,
14.07.2023

Dictated on : 14.07.2023
Checked & signed on : 14.07.2023