

Plaintiffs to cross-examine the Court Commissioner as also panchas if so desired to the extent of the reduced area of encroachment as depicted in the Court Commissioner's Reports or any other documentary evidence which the Plaintiffs would seek to refer to and rely in support of their case. Hence order of the Trial Court to that extent disallowing the reduced area is upheld by this Court.

5. Second ground to seek amendment is to implead the adjacent owner of the suit property as party Defendant in the suit proceedings and to that extent seek consequential relief. Mr. Geete would submit that as a consequence of encroachment, the adjacent owner is required to be impleaded as a Defendant since the area to extent of 1R has been taken over by the said adjacent owner from the suit property.

6. *Prima facie*, this would clearly imply a completely different cause of action against a different third party and not having any relation to the subject cause of action in the suit before the Trial Court.

7. Mr. Geete in his usual fairness would however concede and submit that reasons returned by the Trial Court in paragraph No.4 of order dated 26.10.2023 cannot be therefore faulted with.

8. In view of the above observations and the cogent reasons returned by the learned Trial Court in its order dated 26.10.2023 in the Application filed below Exhibit-33, the impugned order is

sustained.

9. Resultantly, the Writ Petition fails.

10. The learned Trial Court is requested by this Court to complete the adjudication of the suit proceedings in Regular Civil Suit No.9 of 2018 preferably within a period of six months from today strictly in accordance with law without being influenced by any of the observations made in the impugned order as well as this order.

11. With the above directions, Writ Petition is disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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