



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 213 OF 2023

Surajkumar Santosh Lohgaonkar U/g Palankarta Chandrakant
Nagorao Potdar

VERSUS

Haji Salauddin Aainoddin And Others

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Mr. A. R. Mharalkar h/f Ms. S. S. Kulkarni, Advocate for the
Petitioner

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CORAM : AJIT B. KADETHANKAR, J.

DATED : 21ST AUGUST, 2026

P.C. :-

. Petitioner has filed a suit before the learned Civil Judge Senior Division, Biloli seeking declaration and injunction. During pendency of the suit, the plaintiff/petitioner filed an application below Order 6 Rule 17 of the Civil Procedure Code for adding paragraph in the plaint. By way of the said application, the petitioner sought to bring on record a controversy and objection as regards to certain mutation records. In respect of the mutation record sought to be brought on record, the petitioner had also stated the reason sought to be incorporated by way of proposed amendment. Vide impugned order dated 18.10.2022, the Trial Court pleased to reject the application filed for amendment at Exhibit-47.

2. Feeling aggrieved thereby, the petitioner is before this Court.

3. Mr. A. R. Mharalkar h/f Ms. S. S. Kulkarni, learned Advocate for the petitioner submits that the amendment would not change the nature of suit. It is not the case that the application is filed at belated stage. In fact considering the controversy involved in the suit and to arrive at proper conclusion at the end of trial, it would be in the interest of justice if the Trial Court allows the amendment application. He would submit that the application was perfectly covered under Order 6, Rule 17 of the Civil Procedure Code and he ought to have permitted to amend the plaint.

4. None for the respondent.

5. I have heard learned Advocate for the petitioner and also perused the contents of impugned order dated 18.10.2022 passed by the Trial Court. The substantial amendment which the petitioner wants to bring on record is in respect of mutation record. The Trial Court while rejecting the application has observed that as per the report submitted by the Court Commissioner, the plaintiff had possession over 91R land located in gut no.83. It is further observed that the temporary injunction application was allowed to the extent of 80R only. As such, there is nothing on record to show that possession of 11 R land was given to the petitioner.

6. In view of this, I concur with the findings recorded by the Trial Court as the proposed amendment is not necessary for determining the real controversy between the parties before the Trial Court. True that the amendment may not

change the nature of suit; however, that is not the sole criteria for either allowing or rejecting the application for amendment in the pleadings. If the amendment is not at all necessary or not further relevant to the real controversy, the Court is justified in rejecting such application. I do not find any error in the findings recorded by the learned Judge of the Trial Court. Resultantly, Writ Petition stands dismissed.

7. Needless to mention, the report submitted by the Court Commissioner is always subject to challenge by a party.

8. The petitioner is at liberty to raise his objection against the report prepared and placed on record by the Court Commissioner. The petitioner is also at liberty to file an application for amendment if necessity arises. If such application is filed, the Trial Court shall deal it on its own merit and pass appropriate order.

(AJIT B. KADETHANKAR, J.)