

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.874 OF 2015

BHAGWAT APPA MANE

PETITIONER

VERSUS

NANASAHEB DHONDIBA SHENDGE
AND OTHERS

RESPONDENTS

Mr.Pawan K.Ippar h/f Mr.S.J.Salunke, Advocate for the petitioner.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 09/02/2015

PER COURT :

1. The petitioner is the original plaintiff in RCS No.220/1998. An application Exh.107, seeking amendment to the plaint, was filed on 16/08/2013, which is after 15 years of the institution of the suit. Written statement was filed in the year 2000 itself. Recording of evidence is under way. The plaintiff has already amended his plaint once by filing application Exh.67.

2. Mr.Salunke, learned Advocate has strenuously contended that the proposed amendment neither changes the nature of the cause of action nor does it expand the scope of the suit. He submits that there were certain mistakes in mentioning the block numbers and survey numbers as well as the measurements of the properties in the

suit.

3. Having heard the learned Advocate for quite some time, I have gone through the impugned order in the light of application Exh.107. The property as mentioned in the suit was only in relation to block no.486. By the proposed amendment, the petitioner desires to change the measurements of the property, increase the measurements in relation to survey No.257/A, Gat No.483, Gat No.484. The proposed amendments are set out from paragraph No.8 onwards.

4. The Trial Court, by the impugned detailed order, has come to a conclusion primarily on the aspect that new properties are sought to be added to the suit, additional prayers in the nature of seeking a declaration has been made, there is no statement as to what were the circumstances that precluded the petitioner from seeking an amendment in promptitude and no attempt was made to set out the contentions mentioned in application Exh.107 when the petitioner preferred an amendment earlier vide Exh.67.

5. The Trial Court has also noted that new properties being added to the suit and additional prayers being set out by an amendment

after 15 years of pendency in the suit and without any pleading as regards due diligence, would not entitle the petitioner to any relief.

6. Having considered the submissions of the learned Advocate and the facts emerging from the record, I do not find that the impugned order could be termed as being perverse or erroneous.

7. The writ petition, being devoid of merit, is therefore dismissed.

(RAVINDRA V. GHUGE, J.)