

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.6701 OF 2015

Balkrishna Hanmant Patil : Petitioner.
Versus
Yashwant Shripati Wadambe and ors. : Respondents.

Mr. R S Alange for the Petitioner.

CORAM : R. M. SAVANT, J.
DATE : 20th October 2015

P.C.

1 The writ jurisdiction of this Court is invoked against the order dated 14/08/2014 passed by the learned 2nd Joint Civil Judge, Senior Division, Solapur by which order the application (Exhibit 613) for amendment of the plaint filed by the Plaintiff came to be allowed and the Plaintiff was permitted to allow the plaint in terms of the amendment sought vide the said application (Exhibit 163).

2 The suit as originally filed is in respect of the flow of water through the chari which is mentioned in prayer clause (a) of the plaint. The Plaintiff has sought an injunction that the Defendants should not interfere with the natural flow of water. The amendment sought to the plaint is on the basis that pending the suit the work relating to highway was being carried out. The Defendant Nos.2 and 3 got murum brought for the said work of highway and constructed a bund which has the effect of affecting the flow of water. The

Plaintiff therefore sought amendment of the plaint so as to incorporate the said facts of construction of bund and to incorporate a prayer for removal of the said bund which the Plaintiff is now seeking vide prayer clause (aa).

3 The Trial Court considered the said application and allowed the same on the ground that though the application was filed after the trial has commenced, the events which are sought to be brought on record are the events which have transpired pending the suit and therefore would result in complete and effectual adjudication of the suit in question as otherwise same if not allowed would lead to multiplicity of proceedings.

4 The learned counsel for the Petitioner states that the Trial Court has passed the impugned order on 14/08/2014 and the amendment granted by the said order has already been carried out in the plaint and the suit is now kept for filing of the additional written statement of the Defendants.

5 In my view, having regard to the circumstances in which the application for amendment of the plaint was required to be allowed, no case for interference in the writ jurisdiction of this Court is made out. The above Writ Petition is accordingly dismissed. Needless to state that the contentions of the parties are kept open for being raised in the suit.

[R.M.SAVANT, J]