

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

WRIT PETITION NO. 426 OF 2015

Mrs. Pallavi ankit Ajmera & Anr. ... Petitioners

V/s.

M/s. Atlanta manor Co-operative Housing
Society Ltd.

... Respondent

Ms. Priscilla Samuel Nadar, for the petitioner.

Mr. Piyush Navinchandra Shah, for the respondent.

CORAM :A.P BHANGALE, J.

DATE : 27th March, 2015.

P.C.

1. Heard the learned advocate for the petitioners and the learned advocate for the respondent.

2. The petitioners have questioned the order of amendment in the dispute application no. CC/IV/47/2011 pending in the Co-operative Court No. 4, Mumbai. It appears that Trial Court by order dated 11-10-2013 below Exh. 8 granted an application for amendment. The grievance of the petitioners is that application for amendment was granted after written statement was filed by the petitioners and that the amendment in the pending dispute would improve the case of the respondent and therefore impugned order is erroneous.

3. It appears that the application for amendment was granted after hearing the parties and after perusal of the notings cited at the Bar. Under Order 6 Rule 17 of the Civil Procedure Code,

one cannot overlook the principle of amendment which is necessary for the purpose of determining the real controversy between the parties, which ought to be liberally granted, unless it causes serious prejudice to the other side. In the present case, it appears that the Trial Court had considered this aspect and the Appellate Court also concluded that the amendment was rightly granted by the Trial Court.

4. According to the learned advocate for petitioners, the amendment was granted without imposing cost when order was passed below Exh.8 in the pending dispute before Co-operative Court No. 4, Mumbai. Since costs was not imposed while granting amendment, the respondent can be directed to pay the costs of Rs. 500/- to the petitioners. The learned Advocate for respondent is ready to pay the costs of Rs. 500/- to the learned advocate for the petitioners. Learned advocate for the petitioners has received and acknowledges the payment of costs.

5. The petition stands disposed of accordingly. Parties to appear before the Trial Court on 16th April, 2015. The Trial Court is requested to proceed further according to law as expeditiously as possible.

(A.P. BHANGALE, J.)