

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

WRIT PETITION NO.2585 OF 2014

(Smt. Damyantiben w/o Jeevrajbhai Patel ..vs.. Yadavrao s/o Paikannaji Shrungarpawar and others)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : Z.A. HAQ, J.

DATED : 23-11-2015

Heard Shri P.K. Mishra, learned Advocate for the
petitioner/original defendant No.1.

None appears for the respondents.

2. The respondent No.1/plaintiff has filed the civil suit praying for decree for declaration, removal of encroachment, possession and permanent injunction. In paragraph No.2 and schedule attached to the plaint, the plaintiff has given the description of the suit property. By the application (Exhibit No.23), the plaintiff sought to amend the plaint by amending the description of the suit property.

3. The learned trial Judge after considering the facts on the record has allowed the amendment application. The petitioner/defendant No.1 being aggrieved by the order passed by the trial Court, has filed this writ petition.

4. The submission on behalf of the petitioner/

defendant No.1 is that the reason given by the plaintiff for seeking amendment is not proper and the trial Court should not have allowed the application filed by the plaintiff. In support of the submission, the learned Advocate for the petitioner has relied on the judgment given by the Hon'ble Supreme Court in the case of *J.Samuel and others vs. Gattu Mahesh and others* reported in **2012(4) Mh.L.J. 40**. The learned trial Judge has recorded that the amendment sought by the plaintiff does not change the nature of the suit and the plaintiff is not resiling from earlier admission given by him in the plaint. The impugned order does not suffer from any illegality or infirmity which necessitates interference by this Court in the extra-ordinary writ jurisdiction.

5. In the facts of the present case, the judgment relied upon by the learned Advocate for the petitioner does not support him.

6. The writ petition is dismissed. In the circumstances, the parties to bear their own costs.

JUDGE