

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

WRIT PETITION NO.6939 OF 2014

(Ku. Ashwini d/o Ramesh Tapre and others ..vs.. Tulshiram s/o Namdeorao Pimpalde 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 : 09-09-2015

Heard Shri M.P. Lala, learned Advocate for the petitioners and Shri K.B. Zinjarde, learned Advocate for the respondent Nos.1 and 2.

2. The petitioners-original defendants have challenged the order passed by the trial Court, allowing the application (Exhibit 134) filed by the respondent Nos.1 and 2-original plaintiffs, seeking amendment to the plaint.

3. The submission on behalf of the petitioners is that the proposed amendment is not relevant for the purposes of deciding the controversy. It is further contended that the pleadings sought to be brought on the record by way of amendment, if permitted, it will change the nature of the suit.

4. With the assistance of the learned Advocates for the respective parties, I have examined the copy of plaint, copy of application (Exhibit 134) and the impugned order. The contention on behalf of the petitioners that if

the proposed amendment is permitted to be incorporated, it will change the nature of the claim made by the respondent Nos.1 and 2, cannot be accepted. The respondent Nos.1 and 2, by the proposed amendment, seek to bring on the record certain facts which according to them, are relevant for deciding the claim made by the respondent Nos.1 and 2. Undisputedly, the facts which are to be brought on the record by the proposed amendment, are relating to the events which have taken place after the filing of the civil suit. The respondent Nos.1 and 2 have also stated the reason explaining as to why the pleadings sought to be brought on the record by the proposed amendment, could not be brought on the record earlier. The learned trial Judge has exhaustively considered the contentions of both the parties and has recorded his satisfaction in paragraph Nos.5 and 6 of the impugned order for allowing the application (Exhibit 134).

5. It cannot be said that the learned trial Judge has failed to exercise the jurisdiction vested in him or has committed any patent illegality which necessitates the interference with the impugned order.

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

JUDGE