

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

WRIT PETITION NO. 3949 OF 2016

Baburao s/o Girdhari Chavan and others .. Petitioners/Orig.
Defts. No. 1 to 5

vs

Archana @ Komal d/o Balaji Chavan & anr. .. Respondents/Orig.
Plaintiffs

Mr. S. B. Bhapkar, Advocate for petitioners

CORAM : SUNIL P. DESHMUKH, J.
DATE : 5TH APRIL, 2016

ORDER :

1. Petitioners-original defendants, aggrieved by order dated 08-01-2016 passed by Civil Judge, Senior Division, Gangakhed on application (Exhibit-21) filed by plaintiff in regular civil suit no. 34 of 2015, seeking amendment to plaint and addition of party, are before this court.

2. Heard learned counsel for petitioners. The contention of the learned counsel is that as a matter of fact there is no daughter to deceased son of defendant no. 1 by name Archana @ Komal and, in fact, Aarti is the daughter of defendant no. 1's deceased son.

3. According to learned counsel, while this had been pointed out, an amendment application (Exhibit-21) had been moved along with request under Order I, rule 10 of the Code of Civil Procedure, 1908 for addition of one another person as party to the suit.

4. Learned counsel submits that amendment is sought that the person who is referred to as Archana @ Komal as plaintiff no. 1 be considered as Aarti. In the circumstances, according to learned counsel, grave prejudice would be caused to a person who is real Aarti - the daughter of deceased son of defendant no. 1.

5. In short, the grievance appears to be that plaintiff no. 1 is an impostor and not real daughter of deceased son of defendant no.1. In the circumstances, the case as is sought to be pleaded before this court, it is open for the petitioners-defendants to canvass the same before the trial court and it would be a matter governed by evidence. An amendment for the contentions may not be detained on the grounds being taken in the writ petition.

6. As far as addition of other person as party-defendant in the suit is concerned, it is the absence of that person which was pointed out at the instance of the defendants themselves and corrective action is being taken by plaintiffs.

7. Under the circumstances, petition does not appear to give rise to a situation wherein discretionary powers shall be exercised by this court in favour of the petitioners.

8. Writ petition, as such, is not being entertained and is rejected.

SUNIL P. DESHMUKH,
JUDGE

pnd