

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1701 OF 2015

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr.Sagar Kasar for the petitioner

CORAM : K. K. TATED, J.
DATE : JUNE 15, 2016

P.C.:

1 Heard the learned counsel for the petitioner.

2 By this petition under Article 227 of the Constitution of India, petitioner defendant challenges the order dated 2.7.2014 passed by Civil Judge, Junior Division, Nandgaon below Exhibit-30 in Regular Civil Suit No.92 of 2012 allowing respondent plaintiff's application under Order VI Rule 17 of the Code of Civil Procedure, 1908 for carrying out amendment in the plaint.

3 The learned counsel for the defendant submits that the plaintiff filed Suit on 18.9.2012. Thereafter, plaintiff preferred application for temporary injunction below Exhibit-5 under Order 39 Rule 1 and 2 of the Code of Civil Procedure, 1908. Same was dismissed by the Trial Court by order dated 24.4.2013. Thereafter the Trial Court

framed the issues on 8.7.2013. Thereafter the plaintiff filed application under Order VI Rule 17 of the Code of Civil Procedure, 1908 on 19.12.2013 for carrying out amendment in the plaint. Same was opposed by the defendant by filing their reply dated 10.3.2014. He submits that the defendant in the reply specifically stated that by proposed amendment, the entire nature of the Suit is going to be changed. He submits that after dismissing the plaintiff's application below Exhibit-5 for temporary injunction, the plaintiff filed application for carrying out amendment in plaint to fill up the lacuna and same cannot be allowed. These facts were not considered by the Trial Court. Hence, the defendant filed the present petition.

4 Heard the learned counsel for the petitioner defendant. Perused the copy of plaint, application filed by plaintiff under Order VI Rule 17 of the Code of Civil Procedure, 1908 for carrying out amendment. Reply dated 10.3.2014 filed by the defendant and plaintiff. Impugned order dated 2.7.2014. Application filed by the plaintiff for carrying out amendment in the plaint shows that he wants to place on record the way in which he acquired the title in the suit property. In any case the proposed amendment is not going to change the nature of the suit at all. These facts are

considered by the Trial Court in paragraph 6 of the impugned order. Considering the impugned order passed by Trial Court and application filed by the plaintiff under Order VI Rule 17 of the Code of Civil Procedure, 1908, I do not find that because of proposed amendment nature of the suit is going to change.

5 Hence, Writ Petition stands rejected.

JUDGE