

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.2607 OF 2014.

(M/S. PRISM SOFTWARE...VS..RAMESHWAR PANJABRAO GOTMARE.)

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 : JANUARY 04, 2016.

Heard Shri M.R.Joharapurkar, advocate for the petitioner and Shri B.G.Kulkarni, advocate for the respondent.

The petitioner/ defendant has challenged the order passed by the trial Court allowing the application (Exh.52) filed by the respondent / plaintiff and permitting the respondent to amend the plaint. Though, the reasons given by the respondent for delay in seeking amendment to the plaint and the reason given by the learned trial Judge for allowing the application (Exh.52) are not proper, considering the nature of the amendment sought by the respondent, I am not inclined to interfere with the impugned order.

The respondent/ plaintiff, has sought to amend the prayer clause of the plaint and to incorporate the prayer for an enquiry for *mesne* profit from the date of filing of the suit till the date of handing over of possession by the defendant. The proposed amendment neither changes the nature of the claim made by the respondent nor the petitioner has been able to raise any ground pointing out that the respondent cannot be permitted to incorporate the amendment as it is barred by law. However, as the civil suit

is filed on 27th October, 2009 and the application (Exh.52) seeking permission to amend the plaint is filed on 17th July, 2013, the point of limitation for enquiry into the *mesne* profit from 27th October, 2009 is kept open to be considered by the trial Court at appropriate stage.

With the above observations, the petition is **disposed of**. In the circumstances, the parties to bear their own costs.

JUDGE

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