

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 4936 OF 2015
 Rahimoddin Ibrahim Attar Vs. Shakuntalabai Gulabrao Rajguru & Ano.

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

Court's or Judge's Order

Shri S. U. Bhuyar Adv for petitioner.
 Shri V. K. Paliwal Adv for respondents.

CORAM: A. S. CHANDURKAR J.

DATED: 14th JUNE, 2016.

Challenge in the present writ petition is to the order passed by the trial Court below Ex. 27 allowing the application for amendment that was moved by the defendants.

Shri S. U. Bhuyar, the learned counsel for the petitioner submits that the trial Court was not justified in allowing the amendment in view of the fact that the plea as sought to be raised was not referred to in the original written statement. The stand as taken in the amendment application was an after thought and the prayer was made after commencement of the trial.

Shri V. K. Paliwal, the learned counsel for the respondents supported the impugned order. According to him the amendment was necessary for the proper trial of the suit and it was based on the adjudication in Writ Petition No. 1969 of 2014. As this writ petition was decided on 02.07.2015, the application for amendment was moved immediately.

Having heard the respective counsel and having perused the impugned order, I do not find that the trial Court committed any error in allowing the application for amendment. The trial Court has held that the amendment was necessary for proper adjudication of the suit. It has also found that the application could not have been moved earlier as the amendment was based on the adjudication in Writ Petition No. 1969 of 2014 decided on 02.07.2015. Thus in absence of any jurisdictional error there is no case made out to interfere in the writ petition.

As the defendants have been permitted to carry out the amendment, it would be open for the plaintiff to file additional affidavit in support of his evidence in view of the amendment as allowed. With these observations, the writ petition is disposed of. No costs.

JUDGE

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