

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

WRIT PETITION NO.365 OF 2015

Suresh s/o Balkrishna Fulzele
-vs-
Mahalaxmi Jagdamba Sansthan

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

Court's or Judge's Orders.

Shri N. S. Deshpande, Advocate for petitioner.
Shri G. N. Khanzode, Advocate for respondent.

CORAM : A.S.CHANDURKAR, J.
DATE : JULY 07, 2016

Heard.

The petitioner who is the original plaintiff in R.C.S. No.174 of 2012 is aggrieved by the order passed by the trial Court rejecting his application for amending the plaint.

The petitioner has filed the aforesaid suit for declaration that he was the wahiwatdar and in cultivating possession of field Survey No.179/1 admeasuring 0.28 R owned by the respondent. In the written statement, the respondent took a specific stand that Survey No.179/1 was admeasuring 91 R and 28 R. This written statement was filed in the year 2004. On 18/07/2014, the plaintiff moved an application below Exhibit-79 for amending the plaint. He sought to properly describe the suit property. This application has been rejected by the trial Court.

Having heard Shri N. S. Deshpande, the learned counsel for the petitioner and Shri G. N. Khanzode, the learned counsel for the respondent, I do not find that the trial Court committed any error in rejecting the application for

amendment. A specific plea was taken by the defendant in his written statement and the suit property was sought to be correctly described. The written statement was filed in the year 2004. In absence of any sufficient explanation or due diligence in not seeking the amendment earlier and after the trial of the suit had commenced, the trial Court was justified in passed the impugned order. In absence of any jurisdictional error, there is no case made out to interfere in writ jurisdiction. The writ petition is therefore dismissed. No costs.

JUDGE