

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12243 OF 2017

1. Anil s/o Chandrakant @ Shivajirao Muley,
Age-44 years, Occu-Agriculturist and Business,
R/o A Building, Flat No.4, Prabhatnagari,
Opp.Shahnoormiyan Darga, Aurangabad,
 2. Kusumbai w/o Chandrakant @
Shivajirao Muley (died),
Age-65 years, Occu-Household,
R/o Ram Mandir Galli, Tq.Georai,
Dist.Beed,
 3. Jayshree w/o Vivek Deshmukh,
Age-38 years, Occu-Household,
R/o Daya Bhagwant Niwas,
Ambad Naka,
Near Swayanwar Mangal Karyalaya,
Tq. and Dist. Jalna
- PETITIONERS

VERSUS

Suresh Wamanrao Muley,
Age-64 years, Occu-Agriculturist and
Pensioner, R/o Georai,
Tq.Georai, Dist. Beed,
At present Plot No.53, N-5, CIDCO,
South Sawarkar Nagar, Aurangabad

-- RESPONDENT

Mr.M.G.Deokate, Advocate for the petitioners.
Mr.S.V.Natu, Advocate for the respondent.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 10/10/2017

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.
2. The petitioner is aggrieved by the order dated 12/06/2017 by which the Trial Court has rejected application Exh.130 praying for leave to amend the written statement.
3. I have heard the submissions of the learned advocates for the respective sides.
4. The petitioners are defendant Nos.1 to 3. Defendant No.1 had prayed for seeking an amendment to the written statement. The proposed amendment is set out in Exhibit 130. The Trial Court has rejected the application solely on the ground that though the suit is pending from 2005, the petitioner is seeking an amendment after about 11 years from the date of the filing of the written statement on 17/06/2006.
5. With the assistance of the learned advocates, I have compared the proposed amendment in Exhibit 130 with the written statement

filed by the petitioners. Barring the first 8 lines of the proposed paragraph 18(V), the rest of the proposed amendment paragraphs are already set out in the written statement in a different language. What is set out in the proposed amendment is differently worded in the written statement.

6. Considering the same and since the recording of evidence has commenced, I do not find that the petitioner could be precluded from introducing the first 8 lines of the proposed paragraph No.18(V), in the written statement. The rest of the proposed paragraphs on internal page Nos.2, 3 and 4 of Exh.130 are not necessary as they already find place in the written statement in a different language.

7. Considering the above, this petition is partly allowed. The impugned order dated 12/06/2017 is set aside and Exhibit 130 stands partly allowed to the extent of permitting the petitioners to amend the written statement by including the first 8 lines (not sentences) under paragraph No.18(V). Amendment to be carried out within the period of 3 (three) weeks from today.

8. Since RCS No.213/2005 is almost 12 years old, the Trial Court shall proceed to decide the same as expeditiously as possible and in

any case within a period of 1 year from today. If any litigating side seeks an adjournment on unreasonable or trivial grounds, the Trial Court would be at liberty to reject the said application as well as impose costs, if deemed appropriate.

9. Rule is made partly absolute in the above terms.

(Ravindra V.Ghuge, J.)