

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 10007 OF 2015

Satyanarayan Yadgiri Chilveri & ors.

... Petitioners.

Versus

Sethi Industrial Premises Co-op.

Soc. Ltd. & anr.

... Respondents.

Mr. Maheshkumar Gundeboina, advocate for petitioners.

Mr. Yogendra Singh i/b. Mr. Jitendar Singh, advocate for respondent No. 1.

CORAM : SMT.SADHANA S. JADHAV,J

DATE : OCTOBER 10, 2017

P.C.:

1 Heard the learned Counsel for the petitioners and the learned Counsel for the respondent No. 1

2 Rule. Rule made returnable forthwith with the consent of the parties.

3 By the present Petition, the petitioners impugn the order dated 5/9/2014, thereby allowing the plaintiff to amend the subject matter

of the plaint. That application seeking amendment to the plaint and the prayer clause was allowed.

4 The learned Counsel for the Petitioner submits that the said application was filed after framing of the issues and therefore, the learned Court out to have rejected the said application on the ground that by taking out amendment whole nature of suit would change.

5 As against this, the learned Counsel for the respondent No. 1 submits that in fact, the plaintiff has only given better particulars and has not amended the subject matter of the plaint and therefore, amendment was allowed. It is also submitted by the learned Counsel for the respondent No. 1 that in fact there were averments in the plaint. However, there was no prayer clause and amendment in the prayer clause may not change the nature of the suit. Upon perusal it is clear that the plaintiff only desired to furnish better particulars which would not cause any prejudice to the defendants.

6 Since the amendment is allowed, the defendant would be entitled to file additional written statement raising the contention that the application itself was not maintainable. All the contentions of the defendant are kept open to be raised in the additional written statement and the learned Court shall deal with the said additional written statement and the contention therein in accordance with law. The order passed by the learned City Civil Court calls for no interference at this stage.

7 The suit is of the year 1999. Taking into consideration the issues involved in the present petition, the City Civil Court is hereby directed to make an endeavour to conclude the suit as far as possible by 31st October, 2018.

8 The Respondent shall comply with the court's conditional order dated 5/9/2014.

9 Rule is discharged accordingly.

(SMT. SADHANA S. JADHAV,J)