

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

CIVIL APPLICATION (CAS) NO.656 OF 2017
IN
SECOND APPEAL NO.167 OF 2003

Motiram Bhivaji Shinde (Dead) Thr. LRs. Sumedh s/o Motiram Shinde and ors.

-vs-

Nandu Motiram Shinde (Dead) Thr. LRs. Leela wd/o Nandu Shinde and ors.

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

Court's or Judge's Orders.

Ms U. R. Tanna, Advocate for applicants.

CORAM : A.S.CHANDURKAR, J.

DATE : AUGUST 22, 2017

This application has been moved for amending the written statement.

According to the appellants who are the original defendants, certain subsequent events have taken place during pendency of the appeal which are required to be brought on record by amending the written statement. As per the proposed amendment, it is sought to be pleaded that the parties to the proceedings are residing in adjacent houses. The plaintiff's family is residing in a house having more area than the suit property which is in possession of the defendants. The defendants have made improvement in the suit house and therefore the decree is sought to be modified in the light of the subsequent developments.

Though sufficient opportunity was granted to the

respondents to file reply to the application for amendment, no such reply has been filed.

Considering the nature of proceedings that have been initiated amongst the members of the family viz. the father and the son and as the proposed amendment is based on subsequent events that have occurred during pendency of the second appeal, they can be permitted to be brought on record to enable adjudication of the rights of the parties.

Hence, as the proposed amendment is based on subsequent events and do not change the nature of the proceedings, the same is allowed. The written statement be amended within period of one week from today. It is open for the original plaintiffs to consequently amend the plaint within period of ten days from today.

Civil application is allowed and disposed of.

S.A. No.167 of 2003

In view of orders passed on C.A.No.656 of 2017, stand over **06/09/2017**.

JUDGE