

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 8618 OF 2015

**KISAN MANIKRAO DALVI
VERSUS
SUNITA KISAN WALUNJKAR AND OTHERS**

...
Advocate for Petitioner : Shri R.D.Sanap
Advocate for Respondent Nos.1 to 3 : Shri S.A.Patil h/f.
Shri V. B. Deshmukh.
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**CORAM : RAVINDRA V. GHUGE, J.
DATED : 06th JULY, 2018.**

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PER COURT :

1. The petitioner- original defendant is aggrieved by the order dated 22/06/2015, passed by the Trial Court in Regular Civil Suit No. 187/2012, by which, application Exhibit 51 has been allowed and costs of Rs.500/- have been imposed, permitting the plaintiff to amend the plaint.

2. The learned Advocate for the petitioner- original defendant is seriously aggrieved by the impugned order for the reason that the description of the suit property is sought to be altered by the plaintiff, the nature of the cause of action would be changed and no property by the new description exists in

the said gut number.

3. I have gone through the grounds for challenge raised by the petitioner and the petition paper book with the assistance of the learned Advocates.

4. On page No. 2 of the plaint, the plaintiff has described the gut number of the suit property as 1572,A1,1/2 at village Jawala. The contention of the plaintiff is that instead of the numerical 2 in the said description, it should have been typed as 'C'(क) . This error will cause an irreparable harm to the plaintiff if it is not cured within time. No other amendment has been sought vide application Exhibit 51.

5. Grievance of the petitioner- defendant is that firstly, no such gut number exists and secondly, no property described by the amended gut number is found in the area. The learned Advocate for the plaintiff submits that the plaintiff is sure that instead of the numerical 2, the alphabet 'C' should have been mentioned (क) in Marathi. To correct the submissions of the defendant, he submits that if he enters a wrong description by

way of an amendment, he would suffer the consequences.

6. It is obvious that the suit has been instituted in 2012 and the amendment was sought on 07/04/2015. It cannot be said that the plaintiff has sought an amendment delayedly so as to be affected by the proviso to Rule 17 under Order 6 of the Code of Civil Procedure. So also, the Trial Court has imposed costs of Rs. 500/- (Rupees Five Hundred only) on the plaintiff.

7. In view of the above, I do not find that the impugned order could be termed as being perverse or erroneous. This petition being devoid of merits is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

shp/-