

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.13801 OF 2018

SK NAWAB PATEL SK HYDER PATEL
VERSUS
K ANAND KRISHNA K SATYANARAYAN MUDLIAR AND ANOTHER

.....
Advocate for Petitioner : Mr. Deshpande Milind K.
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CORAM : N. M. JAMDAR, J.
DATED : 12 DECEMBER 2018

PER COURT:-

1. By this petition, the petitioner has challenged the order passed by the learned Civil Judge, Senior Division, Aurangabad granting leave to amend the plaint upon an application made by the respondents-plaintiffs. The respondents-plaintiffs have sought to correct certain measurements in respect of the suit property based on the changes carried out in the Government record.
2. The learned counsel for the petitioner-defendant contended that the suit is at an advanced stage and the respondents-plaintiffs have not shown any due diligence since filing of the suit and at such a belated stage, the application should not have been allowed.
3. The suit is pending since some time, however, changes in the Government record were carried out recently on 16 February 2018

and the application for amendment was moved on 5 June 2018. The learned Judge, considering the fact that the respondents-plaintiffs have sought to bring the pleading in tune with the corrected Revenue record, has held such amendment was necessary and since this revenue record was corrected in February 2018, due diligence would start from that date.

4. As regards the contention of the petitioner on the merits of this amendment, it are open to the petitioner to argue at the time of hearing of the suit. The contention advanced by learned counsel for the petitioner that such changes were carried out at the behest of respondents-plaintiffs is open to the petitioner and it will be considered by the learned Civil Judge on its own merits.

5. In these circumstances, the discretion used by the learned Civil Judge granting the amendment cannot be faulted. The writ petition is accordingly rejected.

(N. M. JAMDAR, J.)

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