

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

937 WRIT PETITION NO.9406 OF 2019

MANISH DEEPAK SOLANKI AND OTHER
VERSUS
DEEPAK SURESH SOLANKI AND OTHERS

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Advocate for Petitioners : Shri Pawar P.S.

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CORAM : RAVINDRA V. GHUGE, J.

Dated: July 30, 2019

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PER COURT :-

1. The petitioners / plaintiffs are aggrieved by the order dated 21.3.2019, by which, the trial Court has rejected their application Exhibit 33, seeking leave to amend the plaint. The petitioners had proposed addition to paragraph No.4 in the plaint, wherein, it was sought to be canvassed that defendant No.1, who is the father of all the petitioners, was a mentally ill person. He was not able to take any decision. He had lost his mental balance and had become mad from 2006. Further averments were proposed on this foundation.

2. The trial Court, while rejecting Exhibit 32, has noted that there was no such pleading averred in the plaint. It was only averred that the said defendant was habituated to drinking. He was in employment with a College and used to spend his earnings on drinking. As the entire case of the plaintiff would undergo a change by putting forth this new story,

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the nature of the suit would be altered, was the conclusion of the trial Court.

3. I find that the trial Court has rightly refused leave to amend, considering the nature of the proposed pleadings. If the defendant, who has sold out certain property, is to be suddenly termed as a mentally challenged person or a person with mental imbalance, several issues crop up in law including as to who should conduct the case on his behalf. The case would shift on to a completely different track. A person habituated to drinking and selling off certain properties would be one thing to say and a person who is mad or mentally ill, is another thing to say.

4. 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.)

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