

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

WRIT PETITION NO.286 OF 2016

Rekha Murlidhar Tagde

Age: 54 years, Occu : Household,

R/o. Washi, Tq. Washi,

District – Osmanabad.

... Petitioner

Versus

1. The Collector,
Collector Office, Osmanabad

2. Sub-Divisional Engineer,
Special Project Sub-Division No.2,
Washi, Tq. Washi, Dist. Osmanabad

3. Chief Officer
Nagarpanchayat, Washi, Tq. Washi,
Dist. Osmanabad

4. Nitin Khanderao Chede
Age : 44 years, Occu : Agril,
R/o. Washi, Tq. Washi, Shivajinagar
Dist. Osmanabad

... Respondents

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Advocate for Petitioner : Shri Pradeep Deshmukh
AGP for Respondents No.1 & 2 : Ms P.V. Diggikar
Advocate for Respondent No.3 : Shri S.B. Chaudhari
Advocate for Respondent No.4 : Shri M.B. Kolpe

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CORAM : P.R. BORA, J.

Dated: July 26, 2019

ORAL JUDGMENT :-

1. Rule. Rule made returnable forthwith. The petition is heard finally with consent of the learned counsel appearing for the parties. The order passed below Exh.46 in Regular Civil Suit No.9 of

2014 by Civil Judge, Senior Division, Bhoom is questioned in the present petition.

2. The application at Exh.46 was filed by the present petitioner seeking amendment in the plaint. The learned Civil Judge had partly allowed the said application. It is the contention of the present petitioner that, the learned Trial Judge has erred in not allowing the application in toto. According to the learned counsel for the petitioner, the amendment, which has not been permitted by the learned Trial Judge, was in fact necessary for the effective adjudication of the dispute raised by the petitioner in the suit filed by him. It is the contention of the learned counsel appearing for the petitioner that, the respondents, which are sought to be arrayed as respondents no.5 to 7, are necessary parties to the suit, since one transaction between the erstwhile owner of the property purchased by the present petitioner has some nexus with the property purchased by these respondent nos.5 to 7. The learned counsel submitted that, it is the precise objection of the petitioner that, a fictitious plot was created and its sale-deed is stated to have been executed in favour of the said defendants. The learned counsel, in the circumstances, prayed for allowing the petition and consequently to allow the application at Exh.46 in toto.

3. The submissions so made are opposed by the learned counsel appearing for the respondents. The learned counsel submitted that, the Trial Court has rightly rejected the part of the application, which is found it to be irrelevant so far as the subject matter is concerned. The learned counsel, in the circumstances, prayed for dismissal of the writ petition.

4. I have carefully perused the impugned order as well as the suit plaint in Regular Civil Suit No.9 of 2014. I have also perused the contents of the application at Exh.46. The impugned order if read in context with the averments in the application at Exh.46, no fault can be found in the order passed by the learned Trial Judge, since nothing has been explained in the application as about the role of the defendants which are sought to be added as defendant nos.5 to 7. The amendment, which is sought by way of adding paragraph nos.2A and 3B, there appears no foundation for allowing such request. I, therefore, do not see any reason to cause interference in the order so passed. It need not be stated that, though its a right of the plaintiff to seek amendment in the plaint if the subsequent events occur or sufficient cause is made out showing that, the facts which were sought to be incorporated were not within the knowledge of the

plaintiff at the time of the filing of the suit or the documents which are sought to be placed on record were not available at the relevant time; in such circumstances, the Court has to consider the request favorably. In the present matter, in absence of any such pleading available on record, I do not see that, the Trial Court has committed any error in rejecting the application filed by the present petitioner. The Writ Petition being devoid of any substance, deserves to be dismissed and is accordingly dismissed. Rule is discharged.

(PR. BORA, J.)

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