

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6607/2013

Gangadhar Baburao Patil & Ors.

... Petitioners

V/s.

Vasantdada Shetkari Sahakari
Sakhar Karkhana Ltd. Sangli

... Respondent

Mr. Amit Sale for the Petitioners

Mr. Umesh R. Mankapure for Respondent No.1.

CORAM: K.K. TATED, J.

DATED : JANUARY 3, 2019

P.C. :

1 Heard. By this petition under Article 227 of the Constitution of India the Petitioner challenges the order dated 05.03.2013 passed by the Jt. Civil Judge, Senior Division, Sangli below Exhibit- 49 in Regular Civil Suit No. 25/2002 allowing the Respondent - Plaintiff's Application under Order 6 Rule 17 read with section 151 of the Code of Civil Procedure, 1908 for amendment in the pleadings.

2 The learned counsel for the Petitioner submits that the courts below erred in coming to the conclusion that the Respondent Plaintiff has made out a case for carrying out amendment in Regular Civil Suit No. 25/2002 at a belated stage when the matter was fully argued by the parties. He further submits that, the Trial Court has mainly relied on the fact that

the Respondent Plaintiff learnt the order passed by the Collector in ULC Appeal No.19/1981 dated 19.02.1989 on 04.02.2011. He further submits that in fact, in the present proceedings, the Petitioner has also filed Special Civil Suit No.212/1999 where he has disclosed all these facts, therefore, the order passed by the Trial Court is liable to be set aside.

3 On the other hand, the learned counsel for the Respondent – Plaintiff has vehemently opposed the Writ Petition. He further submits that the Trial Court, after considering the facts on record, correctly held in paragraph 16 and 17 of the impugned order that the Respondent learnt about the order dated 19.02.1989 passed by the Collector under ULC 19/1981 on 04.02.2011 and thereafter he made an Application for carrying out the amendment. He further submits that by way of the amendment, the Respondent – Plaintiff wants to show the excess area i.e. 1H 97R instead of 63R. He further submits that in view of the proposed amendment, there is no question of any change of entire structure of the suit. Therefore, the Writ Petition is liable to b dismissed with costs.

4 Heard both sides. It is to be noted that the suit is pending since 2002. The Respondent Plaintiff learnt about the order dated 19.02.1989 passed by the Collector under ULC Appeal No.19/1981 on 04.02.2011 and thereafter immediately, he made the Application for amendment. By way of amendment, the Respondent Plaintiff seeks to add the additional area involved in the litigation. In any case, the suit filed by the Petitioner i.e.

Special Civil Suit No. 212/1999 is also pending for cancellation of the agreement of sale dated 28.08.1978 in respect of the same land.

5 Considering these facts and the reasons given by the Trial Court in paragraph 16 and 17 of the impugned order, I do not find any substance in the Writ Petition. Hence, the Writ Petition is liable to be rejected.

6 Hence, following order is passed:

- a. The Writ Petition stands rejected.
- b. Hearing of Regular Civil Suit No. 25/2002 is expedited.
- c. This court expects that the Trial Court would dispose of Regular Civil Suit No. 25/2002 as early as possible, but in any case on or before 29.06.2019.
- d. No order as to costs.

(K. K. TATED, J.)