

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.1141 OF 2017

(RAMESH SAMBHAJI MHASKE....VS.. RAJKUMAR RAMBHAROSE SINGH & OTH.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S.D.Khati, Advocate for Petitioner.
Shri S.S.Ghate, Advocate for Respondent No.2.

CORAM : Z.A.HAQ, J.

DATED : JANUARY 09, 2019.

Heard.

The petitioner/original plaintiff has challenged the order passed by the trial Court by which application (Exh.40) filed by him seeking permission to amend the plaint is dismissed. The petitioner/ plaintiff is seeking decree for declaration that the sale-deed executed by him in faovur of the defendant No.1 on 20th December 2010 is because of fraud and misrepresentation practiced by the defendant No.1 on him.

The civil suit is filed in June 2011. The defendant No.1 filed his reply and the matter proceeded. At the stage of recording of evidence of the plaintiff in January 2016, the petitioner/plaintiff filed application(Exh.40) seeking permission to bring on record certain events of 2008. By the proposed amendment, the petitioner/ plaintiff wants to plead that he had entered into an agreement to sell the same property, with Sau. Kaushalya Singh Bais on 16th December 2008 for a total consideration of Rs.27,00,945/- . The facts were within the knowledge of the plaintiff. There is no

explanation for not pleading the facts in the plaint or at earlier stage.

The learned advocate for the respondent No.2 who has purchased the suit property from the respondent No.1/defendant No.1 on 31st January 2011 has submitted that there are no bonafides on the part of the plaintiff and the application is filed only to protract the matter.

The learned trial Judge has dealt with the relevant aspects in paragraph No.6 of the impugned order. Further, I find that the submission made on behalf of the respondent No.2 that there are no bonafides on the part of the plaintiff, *prima-facie* appears to be justified.

In the facts of the case, I see no reason to interfere with the impugned order.

The writ petition is **dismissed**. In the circumstances, the parties to bear their own costs.

JUDGE