

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

WRIT PETITION NO.1061/2019

Subhash S/o Waman Bhosale and others

..Vs..

Santosh S/o Narayandas Malu and others

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

Court's or Judge's orders

Shri R.D. Karode, Advocate for the petitioners.

CORAM : Z.A. HAQ, J.

DATE : 11.2.2019.

Heard.

The respondents had filed civil suit praying for decree for injunction restraining the defendant No.1 from going through the field of the plaintiffs to approach the filed of defendant No.1. The plaintiffs had also challenged the order passed by the Tahsildar on 23rd June, 2011 granting access way to the defendant No.1 through the field of the plaintiffs. This civil suit came to be dismissed by judgment dated 3rd April, 2012. The plaintiffs have filed appeal before the District Court which is pending. During the pendency of the appeal, the Tahsildar has reviewed his earlier order dated 23rd June, 2011. Therefore, the plaintiffs filed an application (Exh. No.16) in appeal before the District Court seeking permission to amend the plaint to bring on record the subsequent facts. This application (Exh. No.16) is allowed by the impugned order.

The submission on behalf of the petitioners is

that the order passed by the Tahsildar on 31st May, 2014 reviewing his earlier order dated 23rd June, 2011 will have to be challenged by the plaintiffs in separate proceedings. It is further submitted that the learned District Judge has committed an error of jurisdiction by permitting the plaintiffs to amend the plaint at the appellate stage overlooking the fact that by the proposed amendment, the plaintiffs are seeking to incorporate new challenges.

By the application (Exh. No.16), the plaintiffs have sought permission to bring on record the subsequent fact of passing of the review order by the Tahsildar. The plaintiffs have not prayed for any additional relief by the proposed amendment. The challenges raised by the petitioners in the present petition are misdirected and it cannot be said that the learned District Judge has committed any error of jurisdiction by allowing the plaintiffs to incorporate the amendments. I see no reason to interfere with the impugned order. The writ petition is **dismissed**. No costs.

JUDGE