

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.7701 OF 2019

Sumanbai w/o Bhaiyalal Khandapuriya and ors.

-vs-

Shivaji Shikshan Sanstha Pusad Thr. Secretary Aniruddh Vijayrao Patil

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri N. S. Deshpande, Advocate for petitioners.

CORAM : A. S. CHANDURKAR, J.

DATE : November 22, 2019

The challenge raised in the present writ petition is to the common order passed by the trial Court below Exhibits-46 and 47. By the order passed below Exhibit-46 the trial Court has permitted the plaint to be amended and by the order passed below Exhibit-47 the application for temporary injunction has been permitted to amended.

Shri N. S. Deshpande, learned counsel for the petitioners submits that in view of provisions of Order VI Rule 17 of the Code of Civil Procedure, 1908 it was not permissible to grant permission to the plaintiff to amend the application for temporary injunction. According to him only the pleadings which form part of the plaint or written statement can be amended under that provision. Hence the trial Court erred in allowing the application at Exhibit-47.

Perusal of the amendment sought in the application filed for temporary injunction indicates that the area of the suit property which was shown as 1H 82R is sought to be corrected to 1H 62R. Except this correction there is no further amendment sought in the averments made in the application. As the defendants have not challenged the amendment to the plaint, I do not find any prejudice caused by permitting the plaintiff to amend the application for temporary injunction. In any event such minor correction could be permitted in exercise of inherent powers even if it is assumed that the provisions of Order VI Rule 17 are not applicable to amend such application. Hence there is no case to interfere in writ jurisdiction. The Writ Petition is dismissed. No costs.

JUDGE