

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

WRIT PETITION NO. 43/2019

Shri Lalit S/o Late Ramprakash Sood

..VS..

Shri Sanjay S/o Ramprakash Sood & ors.

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

Court's or Judge's orders

Shri P.S. Tiwari, Advocate for the petitioner

CORAM : Z.A.HAQ, J.
DATED : 09/01/2019

Heard.

The original defendant no. 1 has challenged the order passed by the trial Court by which the application (Exh. 138) filed by the plaintiffs seeking permission to effect the amendment, is allowed. According to the defendant no. 1, the application (Exh. 134) filed by the plaintiffs seeking permission to amend the plaint was allowed on 03/07/2018 and they were directed to amend the plaint till 17/07/2018, however, the plaintiffs failed to effect the amendment and therefore, the defendant no. 1 filed the application under Order 39 Rule 11 of the Code of Civil Procedure praying that the civil suit be dismissed and it is only after filing of this application, the plaintiffs had filed the application (Exh. 138) seeking permission to effect the amendment, and in these facts, the trial Court should not have permitted the plaintiffs to effect the amendment. Further grievance of the defendant no. 1 is that the learned trial Judge has allowed the application (Exh. 138) filed by the plaintiffs without considering the application filed by the defendant no. 1 under Order 39 Rule 11 of the Code of Civil Procedure.

Considering the facts of the case and as the defendant no. 1 has not been able to point out that any substantial prejudice is caused to him, I am not inclined to interfere with the impugned order.

The writ petition is **dismissed**. No costs.

JUDGE

Ansari