

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2648 OF 2020

ISHWARLAL MANOHARLAL DHARIWAL AND OTHERS
VERSUS
EXECUTIVE ENGINEER PUBLIC WORKS DEPARTMENT AND
ANOTHER

Mr.R.S.Wani h/f Mr.A.S.Bajaj, Advocate for the petitioners.
Mr.N.T.Bhagat, AGP for respondent Nos. 1 and 2.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 26/02/2020

PER COURT :

1. The petitioners, original plaintiffs in Reg.Civil Suit No.25/2016, are aggrieved by the order dated 26/11/2019 passed by the Trial Court, by which application Exh.34 filed by the plaintiffs seeking amendment to the plaint under Order VI Rule 17 of the CPC, has been rejected.

2. I have heard the learned Advocate for the petitioners and the learned AGP on behalf of the respondents.

3. The learned AGP strenuously defends the impugned order and refers to the order dated 03/02/2016, by which the temporary

injunction application Exh.6 filed by the plaintiffs, has been rejected.

4. I, however, find that the Trial Court has failed to apply its mind to Exh.34 and without considering the amendment sought, it has rejected Exh.34 only on the ground that after the temporary injunction application was rejected, no amendment was sought till 14/12/2018. It is undisputed that the recording of oral evidence has not commenced in the suit.

5. In view of the above, this petition is partly allowed. Application Exh.34 is restored in RCS No.25/2016. The litigating parties shall address the Trial Court once again on Exh.34, on or before 31/03/2020 and the Trial Court shall pass a reasoned order considering all the contentions of the litigating sides, on or before 30/04/2020.

(Ravindra V.Ghuge, J.)