

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.4241 OF 2020

**BALASAHEB GUNDU KHAJURE
VERSUS
BALASAHEB SURYAKANT GHODKE AND OTHERS**

...
Advocate for Petitioner : Mr. Deshpande Gaurav L.
Advocate for Respondent Nos. 1 to 11 : Mr. H. V. Tungar

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 07th DECEMBER, 2021

PER COURT :

1. This petition challenges the order dated 31-12-2018, passed by the Learned Civil Judge, Junior Division, Ausa, below Exhibit-43 in Regular Civil Suit No.520/2017, thereby rejecting the application filed by the petitioner under Order VI Rule XVII of the Code of Civil Procedure.
2. I have heard the rival submissions of the contesting parties.
3. Perusal of the impugned order reveals that the amendment application was filed without carrying out measurement of the property of the plaintiff. Vague allegation is leveled that the defendants have encroached on the land of the plaintiff. The application does not specify the portion of land on which encroachment is made. No specific area of encroachment is mentioned. So also, no date on which encroachment is

made is specified in the application. It is also not stated as to who is in possession of the encroached area. Considering these aspects the trial Court was justified in rejecting the application filed by the petitioner. There is no illegality or perversity in the order impugned in the present petition and no case is made out by the petitioner to exercise extraordinary writ jurisdiction to interfere in the impugned order passed by the trial Court. The writ petition is, therefore, dismissed.

4. However, in the facts of the present case, with a view to avoid multiplicity of proceedings, liberty is granted to the petitioner to file application for amendment, by giving particulars and details as are mentioned by the trial Court in the impugned order. If such application is filed, the same shall be considered on its own merits, by the trial Court, after giving opportunity of hearing to the parties.

5. With these directions, writ petition is disposed off.

(NITIN B. SURYAWANSHI, J.)