

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.7930 OF 2021

Rajaram Ramchandra Naikwadi
(Deceased) Through LRs.

..

Petitioners

Vs.

Shamsuddin Kasimsaheb Lashkari
& Ors.

..

Respondents

...

Mr. Nagesh Y. Chavan for the petitioners.

...

CORAM : SMT. BHARATI DANGRE, J.

DATED : 24TH NOVEMBER, 2021.

P.C:-

1. By the present writ petition, the petitioners are challenging order passed below Ex-108 in Regular Civil Suit No.376 of 2000, under which the petitioner's application for amendment in the plaint under Order 6, Rule 17 of the CPC has been granted, subject to payment of costs.

2. Heard learned counsel for the petitioners and perused the necessary documents placed on record, which include the copy

of the plaint, the amendment application and the impugned order.

3. In the application for amendment, which is placed on record at page 61, the plaintiff has averred that during the pendency of the suit before the Court and though a notice of lis pendens was registered on 27/06/2008 in the office of Sub-Registrar, one Laxmi Mahesh Patil, resident of Sangli had dealt with the said property by effecting some transaction and this transaction is void *ab initio* in view of the lis pendens. Therefore, a relief is sought to implead her as respondent No.4. The pleadings are also sought to be amended by the said application by inserting paragraph No.4(a) to the effect that the Revenue Officer / Tahsildar by order dated 14/05/2007 has given a declaration that defendant No.3 Dhullppa Ambi is not a tenant in Gat Nos.565 and 567 i.e. the suit property and his name was directed to be deleted from the worksheet.

4. The said pleading, if read, in conjunction with paragraph No.4 of the plaint, where it is pleaded to the effect that at that time defendant No.1 was in possession of the suit property but in order to avoid execution of the agreement entered into with the plaintiff, in connivance with the defendants the name of defendant No.3 has been recorded as tenant and the plaintiff was kept away from cultivation of the land as per the contract.

5. In paragraph 4 of the plaint, it is pleaded that by cancelling his name, the land should be made over to the plaintiff since it is purchased by the plaintiff, parting with various amounts from time to time.

6. In the wake of the pleadings, which was made in paragraph No.4 and, the insertion of additional pleadings by way of paragraph 4(a), in any way, does not change the nature of the relief that was sought, learned Judge was perfectly justified in allowing the amendment by observing that the amendment will only avoid multiplicity of the proceedings and in order to avoid further complication when third party interest is created, the amendment is necessary for effective adjudication of the suit. The impugned order is thus perfectly a reasoned order in the light of the objects underlined in Order 6 Rule 17 of the CPC. I find no legal infirmity in the order. Necessarily, the writ petition is dismissed.

[SMT. BHARATI DANGRE, J.]