

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3004 OF 2015

Damodar Ganpat Rokade .. Petitioner

Vs.

Renuka Enterprises & Ors. .. Respondents

...

Ms. Naiana Boraste with Mr. Girish R. Agrawal for the
petitioner.

...

CORAM : SMT. BHARATI DANGRE, J.

DATED : 30TH NOVEMBER, 2021.

P.C:-

1. Heard learned counsel appearing for the petitioner.

In the present writ petition, the order passed by the learned JMFC, Court No.6, Nashik rejecting the application taken out by the plaintiff seeking amendment in the suit, is under challenge.

2. The plaintiff has instituted a regular civil suit for declaration and injunction and, on appearance, the defendant has filed written statement and controverted the allegations. The issues were settled in the suit on 22/11/2011. Thereafter, an application was taken out by the plaintiff under Order 1 Rule 10

of the CPC on 14/10/2014, which was resisted by the defendant and the same is rejected by the impugned order.

3. The reasoning adopted by learned Judge clearly reflects that by the amendment, the pleadings which were well within the knowledge of the plaintiff, who had filed the suit for declaration are sought to be brought on record. In paragraph 3 of the plaint, the names of the proposed defendants along with mutation entry and the day on which the transaction had taken place, had already included. In paragraph 8 of the plaint, the plaintiff has made a case for declaration, whereas, in paragraph 8-A of the proposed amendment, the suit is sought to be amended by seeking a relief of partition qua the suit property. Recording that the amendment will change the nature of the suit itself, the same is rejected. I do not see any legal flaw in the reasoning adopted.

Another facet of the matter is that the amendment of plaint is rejected in December, 2014, necessarily the suit must have proceeded ahead. In any case, since the suit is filed in the year 2010, learned Judge, Nashik, before whom the suit is pending is requested to dispose of the suit within a period of six months from today.

4. With the aforesaid observation, the writ petition is dismissed.

[SMT. BHARATI DANGRE, J.]