

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

WRIT PETITION NO.4849/2021

Manik Dewaji Dongarwar...Versus...Sindhu Suresh Gahane and ors

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

Court's or Judge's orders

Mr. A.V.Muley, Advocate, for petitioner

CORAM : AVINASH G. GHAROTE, J.

DATE : 30/11/2021

Heard Mr. Muley, learned counsel for the petitioner. He submits that in the earlier application for amendment at Exh. 27, which was allowed, a statement was made by the plaintiff that Gat No. 177 admeasuring 0.98 hectare has been transferred in the name of Defendant No.1 without the consent of the plaintiff, which was not binding upon the plaintiff. By the subsequent application at Exh. 33, this portion is being sought to be deleted, which has been allowed by the impugned order. Mr. Muley, learned counsel for the petitioner submits that what has been permitted to be added by virtue of Exh.27 in the plaint, as indicated above, was an admission which cannot be permitted to be withdrawn and therefore, the subsequent application for amendment seeking deletion ought not to have been granted by the learned Trial Court.

It is material to note that a mere assertion has been made in Exh.27 regarding the transfer in favour of Defendant No.1 without anything else. In fact, the

withdrawal of the said assertion is in favour of Defendant No.1. That apart the deletion of the same would not in my considered opinion amount to any admission made and neither does it change the nature of proceedings, considering which I do not find any merit in the petition. The same is dismissed. No costs.

JUDGE

rvjalit