

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

WRIT PETITION NO.43 OF 2022

**SMT. MANDAKINI CHAGANRAO NARALE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for Petitioners : Mr. Gunjal Bharati B.
AGP for Respondent No.1 – State : Mrs. V. S. Chaudhari

...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 04th JANUARY, 2022

PER COURT :

1. This petition impugns the order dated 27-11-2021, passed by the learned Joint Civil Judge, Junior Division, Paithan, below Exhibit-66 in R.C.S. No.179/2009, thereby permitting the plaintiff – respondent to amend the plaint.

2. The trial Court while passing the impugned order has taken into consideration the facts that the plaintiff has filed a suit for redemption, possession and perpetual injunction and the suit is fixed for recording evidence of the defendant – petitioner. During Covid pandemic the plaintiff received a notice from the Talathi that Aruna Mane and Wrunda Kulkarni have filed sale deeds of the suit property and prayed for mutation entry in that regard. In the say filed by the defendant – petitioner to amendment application, it is contended that

the said sale deed was executed in the year 1996 and the plaintiff had knowledge about the said sale deed.

3. Taking into consideration the peculiar facts of the case, the trial Court was of the view that since the sale deed was executed in favour of Aruna Mane and Wrunda Kulkarni, they are necessary and proper parties in the suit and it is necessary to add them by permitting the amendment proposed by the plaintiff. The proposed amendment is necessary to resolve controversy between the parties and no prejudice will be caused to the defendant – petitioner.

4. The trial Court has rightly exercised discretion in favour of the plaintiff. The amendment is necessary to resolve the controversy between the parties, by permitting the amendment multiplicity of the proceedings would be avoided. In that view of the matter, the trial Court was justified in allowing the amendment application. No illegality or perversity is found in the impugned order. Writ petition is, therefore, disposed off.

(NITIN B. SURYAWANSHI, J.)