

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

25 WRIT PETITION NO.5256 OF 2022

**BHASKAR FOODS PVT. LTD. THROUGH ITS AUTHORIZED OFFICER
ROBINDRA SHANKAR ROY
VERSUS
BHAGWATI REGINERY PVT. LTD. THROUGH ITS MANAGING DIRECTOR
AND OTHERS**

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Advocate for Petitioner : Mr. Deshmukh Anand I.

CORAM : MANGESH S. PATIL, J.
DATE : 20.06.2022.

PER COURT :

Heard learned advocate Mr. Deshmukh for the petitioner.

2. The petitioner is a defendant in a suit filed by the respondent for recovery of money. After the suit reached the fag end, the respondent/plaintiff submitted an application seeking amendment in the title clause of the suit to point out that though initially it was a Private Limited Company subsequently it has transformed into a Limited Liability Partnership under the L.L.P. Act, 2008. By the order under challenge the trial court has allowed the application and allowed the proposed amendment to be carried out subject to payment of costs of Rs. 1000/-

3. The learned advocate Mr. Deshmukh would submit that the entire nature of the suit would change. The respondent/plaintiff who have sought such amendment since after its transformation in the year 2014. There was huge delay. No prompt steps were taken. Even the suit would not be maintainable if the facts stated in the application seeking amendment are to be accepted. Ignoring all these circumstances, the trial court has readily allowed the application. The impugned order is illegal and may be quashed and set aside.

4. I have carefully gone through the order as well as the papers and

considered the submissions of the learned advocate.

5. Admittedly, the respondent has filed the suit for recovery of money styling it to be a Private Limited Company. It appears that subsequently its constitution and nature has changed to a Limited Liability Partnership under the L.L.P. Act, 2008.

6. True it is that there is a huge delay in making the prayer which could have been made at some earlier point of time. However, the question to be addressed, as has been rightly pointed out by the learned Judge while considering the request for amendment, clearly indicate that unless it is pointed out that the proposed amendment is prompted by some *mala fides* or has been made with some ulterior motive or causes some serious prejudice to the other side those need not be refused. The petitioner is a stranger. As far as the respondent/plaintiff establishment is concerned, not only in the say objecting the proposed amendment but even before this Court, learned advocate could not objectively demonstrate as to how the proposed amendment is likely to cause some prejudice to it. Even there is no material to attribute *mala fides* on the part of the respondent in moving the application for amendment belatedly.

7. Apart from the above state of affairs, if really the constitution of the respondent/plaintiff has undergone a change interregnum from being a Private Limited Company to a Limited Liability Partnership, not allowing the amendment to be carried out would cause a serious prejudice to the respondent. The proposed amendment is indeed necessary for adjudication of the suit. The reasoning given by the learned Judge of the trial court on the above mentioned lines is unassailable.

8. The Writ Petition is dismissed.

(MANGESH S. PATIL, J.)

mkd/-