

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

WRIT PETITION NO. 11216 OF 2022

Ganesh namdev Gadakh and another .. Petitioners

Versus

Kacharu Damu Gadakh and others .. Respondents

Shri Ajay T. Kanawade, Advocate for the Petitioner.

CORAM : SANDEEP V. MARNE, J.

DATE : 14TH NOVEMBER, 2022.

FINAL ORDER :

. By this petition, petitioners assail order dated 22.02.2022 passed by the Joint Civil Judge Junior Division, Sangamner on application below Exhibit 102 in R.C.S. No. 912 of 2013. By that order, application filed by the defendant No. 2 for amendment of written statement has been allowed.

2. No doubt, the defendant No. 2 has been extremely casual in defending the suit and the events sought to be brought on record by the defendant No. 2 have occurred prior to institution of the suit. The plaintiff amended the suit in the year 2017 and the defendant No. 2 filed additional written statement on 25.09.2017. He had opportunity at the time of filing additional written statement to bring on record the missing events. He, however, failed to do so. In the mean time, the Trial Court proceeded further in the suit and evidence of the plaintiff is

closed. At a stage where defendants were called upon to lead their evidence, the defendant No. 2 filed an application for amendment of the pleadings. It is therefore difficult to arrive at conclusion that there was due diligence on the part of the defendant No. 2 in moving application for amendment. However, after going through the proposed amendment filed by the defendant No. 2, it appears that same is absolutely relevant for determining the real question of controversy between the parties. By amendment, the defendant No. 2 is bringing on record various transactions that have taken place in regard to the suit property. This in my opinion would assist the court in correctly adjudicating the disputes between the parties. The Trial Court has already imposed costs on the defendant No. 2 for belatedly moving application for amendment. In my opinion, therefore, no interference is warranted in the order passed by the Trial Court. The petition is devoid of merits. Same is dismissed without any orders as to costs.

[SANDEEP V. MARNE, J.]

bsb/Nov. 22