

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

902 WRIT PETITION NO.5018 OF 2020

BHATU UTTAM KOLI AND ANOTHER
VERSUS
RATAN VEDU KOLI AND OTHERS

...
Advocate for Petitioners : Mr J.R. Shah

CORAM : SANDEEP V. MARNE, J.
DATE : 20th DECEMBER, 2022

PER COURT :

1. Petitioners challenge order dated 06.06.2019 rejecting the application for amendment of written statement to incorporate the averment of non-joinder of necessary parties.

2. The suit is of the year 2014. The issues are settled on 09.09.2015 and the trial had already been commenced when application for amendment was filed on 28.03.2019. Apart from the fact that the amendment was belatedly moved, the manner in which the petition is prosecuted further indicates negligence on the part of petitioners. The present petition has been filed on 28.09.2019 and was not moved till 18.10.2020. When the petition was called out on 18.10.2020, none was present on behalf petitioners. Thus by now, period of three and half years passed from the date of rejection of application for amendment of written statement. The trial in the suit must have progressed substantially during this period. It is not appropriate to set entire clock back by permitting petitioners to add a ground of non-joinder of necessary parties, which may necessitate framing of additional issues and leading of additional evidence.

3. In these circumstances, no interference is warranted in the impugned order.

4. The writ petition is devoid of merits. The same is dismissed with no order as to costs.

[SANDEEP V. MARNE, J.]

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