

THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.439 OF 2022

Rajabhau S/o. Manik Deshmukh,
Age 66 years, Occu. Agri.,
R/o. Katpur, Taluka and District Latur .. Petitioner

Versus

1. Avinash S/o. Arunrao Deshmukh,
Age 45 years, Occu. Agril.,
R/o. Katpur, Taluka and District Latur
2. Sau. Laxmi w/o. Avinash Deshmukh,
Age 45 years, Occu. Medical Profession,
R/o. Katpur, Taluka and District Latur .. Respondents

...
Advocate for Petitioner : Mr. V. D. Gunale

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 12-01-2022

PER COURT :-

The order dated 22.02.2021 passed below Exhibit-75 in Regular Civil Suit No. 580 of 2006, by the learned 5th Joint Civil Judge, Junior Division, Latur, is challenged in the present petition.

2. Heard the learned Advocate for the petitioner.
3. By application Exhibit-75, the petitioner-defendant prayed for acceptance of written statement on the ground that plaintiff

no. 2 was added by effecting amendment in the plaint. The suit is for recovery of possession of land. Therefore, the defendant wanted to keep on record his pleadings in respect of status, rights, cause of action, etc.

4. The trial Court, while rejecting the application, has observed that the application for addition of plaintiff no. 2 was allowed only to the extent of addition of plaintiff, the pleadings were not allowed to be amended. Therefore, plaint is unamended. The suit is listed for arguments and as per orders passed by this Court, the proceedings are expedited.

5. Learned Advocate for the petitioner, in support of arguments, has placed reliance in ***Baldev Singh and others Versus Manohar Singh and another*** (MANU/SC/3519/2006 : AIR 2006 SC 2832) to contend that the trial Court erred in rejecting the additional written statement of petitioner.

. In the said ruling, the trial had not commenced and the parties were yet to file their documents. In view of these facts, the Honourable Apex Court held that the application for amendment of the written statement ought to have been allowed. Such are not the facts of the present case.

. Taking into consideration the fact that there is no amendment in the plaint, there was no occasion for the defendant-petitioner to file additional written statement. It is also necessary to note here that by way of additional written statement, the defendant has, for the first time, raised plea of adverse possession.

6. The trial Court has passed a well reasoned order. There is no illegality or perversity or jurisdictional error in the impugned order.

7. Writ petition is, therefore, dismissed. No costs.

(NITIN B. SURYAWANSHI)
JUDGE

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