

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

WRIT PETITION NO.3387 OF 2022

**PRAKASH PRABHAKAR CHAUDHARI AND ANOTHER
VERSUS
PRABHAKAR RAMCHANDRA CHAUDHARI AND OTHERS**

...
Mr. P. V. Barde, Advocate for the Petitioners.
Mr. A. J. Patil, Advocate for Respondent No.2.
...

CORAM : SANDEEP V. MARNE, J.

DATED : 17th NOVEMBER, 2022.

PER COURT:-

1. By the present petition the petitioners assail the order dated 25.11.2021 passed by the Joint Civil Judge, Senior Division, Bhusaval on application below Exhibit-66 filed in Special Civil Suit No.52/2016, whereby plaintiff's application for amendment of the plaint has been rejected.

2. While several amendments have been effected in the plaint, Mr. Barde, learned counsel has objection essentially to deletion of some of the suit properties from the plaint; addition of paragraph no.27-A relating to the Memorandum of Understanding dated 12.02.2012 and consequential relief of specific performance of that Memorandum of Understanding and delay in filing application.

3. So far as the objections to deletion of suit properties is concerned, perusal of reply filed by the petitioners opposing amendment shows

that no objection was raised to deletion of some of the suit properties by way of amendment. Therefore, a petitioners cannot be permitted to now make a grievance about deletion of some of the properties.

4. So far as introduction of pleadings and reliefs relating to Memorandum of Understanding dated 12.02.2012 is concerned, it is the petitioners themselves who have contended in paragraph nos.27 and 28 of their written statement that the plaintiffs ought to have sued for recovery of amount due under the Memorandum of Understanding dated 12.02.2012. Now that the plaintiffs sought to amend the plaint by seeking recovery of the amount due under Memorandum of Understanding dated 12.02.2012, the petitioners cannot have any objection to the same.

5. Another objection of Mr. Barde is that there is delay in filing the application for amendment, as the suit pertains to the year 2016, and the amendment application was filed on 29.01.2021. However, it appears that the trial in the suit is yet to commence and therefore, this delay could not have been a reason for rejecting the application for amendment.

6. In the result, I do not find any error being committed by the Trial Court in allowing the amendment.

7. The petition is devoid of any merits and the same is dismissed without any orders as to cost.

(SANDEEP V. MARNE)
JUDGE

Devendra/November-2022