

Dusane

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.8354 OF 2019

Ganesh Haribhau Akkalkote & Anr. ...Petitioners

Vs.

Jaychand Shantilal Surana & Ors. ...Respondents

BHALCHANDRA
GOPAL
DUSANE

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BHALCHANDRA
GOPAL DUSANE
Date: 2022.12.20
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Mr. Sujeet R. Bugade for Petitioners.

Mr. Sarthak S. Diwan i/by A.M. Kulkarni for
Respondent no. 1.

CORAM: MADHAV J. JAMDAR, J.
DATE: 15th DECEMBER, 2022

P.C.:

1. Heard Mr. Bugade, learned Advocate appearing for the Petitioners- added Defendant nos. 6 and 7 and Mr. Diwan, learned Advocate appearing for Respondent no.1- original Plaintiff.

2. By the present Writ Petition, the Petitioner is challenging the order dated 1st July 2015 passed by learned Joint Civil Judge, Junior Division, Barshi below Exhibit 247 in Regular Civil Suit No. 136 of 2001 as well as order dated 5th November 2016 passed by learned Joint Civil Judge, Junior Division, Barshi below Exhibit 271 in Regular Civil Suit No. 136 of 2001.

3. At the outset, it is to be noted that the impugned orders are dated 1st July 2015 and 5th November 2016 and the present petition has been filed on 22nd March 2019. There is no sufficient explanation given for said inordinate delay of more than three years. There is some explanation given in paragraph 13 regarding financial crisis and personal problems, however, no details in that behalf are given. It is further required to be noted that as per the contention of Respondent no.1, the Petitioners are using the suit properties for commercial purpose and therefore there are reasons to believe that said explanation is not genuine.

4. By the impugned order dated 1st July 2015, application filed by Respondent no.1 under Order VI, Rule 17 and Order I, Rule 10 of CPC was allowed. By the proposed amendment, Respondent no. 1- Plaintiff sought amendment to bring on record the contention that Respondent nos. 6 and 7 are conducting photocopy shop as well as business of hotel in the suit premises and therefore, the contention is raised *inter-alia* that Defendant nos.6 and 7 are illegal sub-tenants. The amendment application has been allowed.

5. The Petitioners filed application bearing Exhibit 271. It is the contention of the Petitioners i.e. Defendant nos. 6 and 7 that they were frequently visiting the suit premises as Defendant

nos. 1 to 5 and Defendant nos. 6 and 7 are friends and therefore, the suit summons were served on them. Therefore it was prayed to delete their names from array of the parties. All these contentions can be raised by Defendant nos.6 and 7 at the time of trial and therefore no interference of this Court in the impugned orders is required.

6. The Petition is dismissed with no order as to costs.

(MADHAV J. JAMDAR, J.)