

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 2593 OF 2022

Charanjeet Bahadurchand Bahel and anr Vs. Prakash Kisanrao Nandane

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. V.B.Bhise, Advocate for the petitioner
Mr.O.A.Ghare, Advocate for Respondent

CORAM : AVINASH G. GHAROTE, J.
DATE : 26/07/2022

1] Heard Mr. Bhise, learned counsel for the petitioner.

2] The petition challenges the order dated 25.11.2020 passed by the learned trial Court, by which the application for amendment of plaint has been allowed.

3] It is the contention of Mr. Bhise, learned counsel for the petitioner that the amendment changes the nature of the suit and therefore was not permissible.

4] The suit earlier was for possession, damages and mesne profit on the ground that the petitioner was a trespasser. A plea was raised by the petitioner that he was a tenant of the premises, and issue in that regard was also framed. After the affidavit on evidence filed by the plaintiff, the defendant filed an application for

amendment and so also a similar application was filed by the plaintiff too. Both these applications have been allowed, however, challenge is raised to the order by which the application for amendment of plaint is allowed.

5] It is a settled position of law that multiplicity of litigation has to be avoided wherever possible. In the instant case, the parties are already before the Court and as it is the question whether the status of the defendant was that of the trespasser or that of a tenant, which is going to be decided, in which an alternate plea has been raised by the amendment that in case it is found that the defendant is not a trespasser and is a tenant, he be evicted for the grounds raised therein. That being the position, in order to avoid multiplicity of the litigation, I do not see any reason to interfere in the impugned order. The petition is therefore dismissed. No costs.

JUDGE

Rvjalit