

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

WRIT PETITION NO.3286 OF 2022

Haji Aslam Khan Taji Mujawar Haji Amiruddin Taji and others
Vs.
Kalim s/o Bismillah Khan and others

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

Court's or Judge's orders

Mr. N. A. Jachak, Advocate for petitioners.
Mr. M. Shareef, Advocate for respondents.

CORAM : AVINASH G. GHAROTE, J.
DATE : 24/08/2022

1. Heard Mr. Jachak, learned counsel for the petitioners and Mr. Shareef, learned counsel for the respondents.

2. The petition challenges the order below Exh.17 dated 26.4.2022 (page 35) whereby the application for amendment of the plaint filed at the stage when Exh.5 is still under consideration, as a result of which, the proviso to Order 6 Rule 17, is not applicable.

3. Mr. Shareef, learned counsel for the respondents contends that by way of the proposed amendment a suit for declaration and permanent injunction is sought to be converted into one for specific performance and therefore the same ought not to be permitted.

4. It is trite position of law, that multiplicity of proceedings wherever possible needs to be avoided and by permitting the proposed amendment a claim for specific performance sought to be raised in the suit. The parties are the same, the subject matter is also the same and it would be appropriate to decide the claim for specific performance in one single suit, considering which, the impugned order is hereby quashed and set aside and the application below order Exh. 17, is allowed.

JUDGE

Sarkate