

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

**WRIT PETITION NO.1415 OF 2023**

Narendra Santosh Kuyate

.... Petitioner

Versus

Anusayabai Wd/o. Pandharinath Patil  
and another

.... Respondents

.....

Mr. D.A. Mane, Advocate h/f Mr. M.M. Patil, Advocate for the  
Applicant

.....

**[CORAM : NITIN B. SURYAWANSHI, J.]**

**DATE : 06<sup>th</sup> MARCH, 2023**

**ORDER :**

1. This petition, filed under Article 227 of the Constitution of India, impugns the order dated 08/11/2022 passed below Exhibit-22 in Regular Civil Suit No.54 of 2022 by Civil Judge, Junior Division, Raver, District Jalgaon.

2. The petitioner is the original defendant in the suit filed by respondents-plaintiffs for declaration of easementary road, and injunction not to disturb the said road. In a map filed by the plaintiffs along with the suit, the position of the road is shown.

3. The defendant filed written statement and challenged the position of the road shown by the plaintiffs in their map, and claimed that the road is located at different side. The defendant also filed map showing position of the easementary road, which is at different location than shown by the plaintiffs.

4. After filing of written statement, plaintiffs filed application seeking appointment of Court Commissioner, which was allowed and the Court Commissioner confirmed in his report that the position of the road shown by the defendant is correct. After receipt of Court Commissioner's report, the plaintiffs filed an application seeking amendment of pleadings and prayers vide application Exhibit-22, which is allowed. Hence, the present petition.

5. Heard the learned advocate for the petitioner. Perused the grounds raised in the petition, and the documents filed on record including impugned order.

6. The trial Court has observed in the impugned order that the proposed amendment is necessary for the purpose of determining the real question in controversy between the parties. The trial has not commenced, and if the application is

rejected, it will cause multiplicity of the proceedings, which may cause delay in disposal of the suit. Hence, the trial Court has allowed the application Exhibit-22.

7. The trial Court has rightly exercised discretion in favour of the plaintiffs, and has allowed the application by giving cogent reasons. No case is made out by the petitioner to warrant exercise of extraordinary writ jurisdiction as the impugned order is not illegal or perverse.

8. The writ petition being devoid merit is dismissed.

**[ NITIN B. SURYAWANSHI ]**  
**JUDGE**

S.P. Rane