

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3599 OF 2023

Bhagwan S/o Manikrao Khandare
and others

.... Petitioners

Versus

Bansidhar S/o Bhagwanrao Khandare

.... Respondents

.....

Mr. Shahaji B. Ghatol Patil, Advocate for Petitioners

Mr. Manish P. Tripathi, Advocate for the Respondent

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 10th JULY, 2023

ORDER :

1. Leave to correct the prayer clause.
2. Petitioner is aggrieved by the order passed by learned Joint Civil Judge, Senior Division, Parbhani, below Exhibit-48, thereby rejecting the application filed by the petitioners/defendants under Order VI Rule 17 of the Code of Civil Procedure, for amendment of written statement.
3. Suit is filed by the respondent/plaintiff for partition in respect of agricultural property Gut No.52 admeasuring 5 Hectare 0.4 R situated at village Dhanorea (Bk.), Taluka Jinture, District Parbhani, and other properties. The petitioners/defendants appeared and filed their written

statement and opposed the suit. By filing Exhibit-48, the petitioner/defendants sought amendment of written statement, which is rejected by the Trial Court. Hence the present petition.

4. Heard the learned advocate for the petitioners and the learned advocate for the respondents. Perused the writ petition memo, annexures thereto, and the impugned order.

5. The Trial Court has rejected the amendment holding that defendant No.1 executed sale deed in favour of Sarjerao in connection with 81 R from Gut No.52. That property is not recorded in the name of plaintiffs and the defendants. Defendant No.1 had knowledge about the said transaction since beginning, but he did not mention the said fact in the written statement. Explanation given by defendant No.1 in the amendment application is not accepted by the Trial Court. The Trial Court has come to the conclusion that said amendment is not necessary for adjudication of dispute between the parties. No relief is claimed either by the plaintiff or the defendants in connection with the properties mentioned in the amendment application. The trial has commenced as the plaintiff has filed his evidence affidavit and the suit is pending for cross-examination.

6. It appears that the amendment application is not properly worded and the same is rejected by the Trial Court by giving proper reasons. There is no illegality or perversity in the order impugned in the present petition. No case is made out by the petitioner to interfere in the order impugned in the present petition. The writ petition being devoid of merit is dismissed.

7. If so advised, the petitioners may prefer appropriate amendment application, which Trial Court shall consider on its own merits without being influenced by the order impugned in this petition.

[NITIN B. SURYAWANSHI]
JUDGE

S.P. Rane