

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8507 OF 2023

Khare Tarkunde Sancheti Construction
Pvt. Ltd. through its Managing Director
Manohar Ramchandra Tarkunde
Through its Power of Attorney Holder
Gangaprasad Dhondibarao Kakade Petitioner

Versus

Balaji S/o Hiranman Barse
Since Deceased through its L.Rs.
Padminibai W/o Balaji Barse
and others Respondents

.....
Mr. Swapnil S. Rathi, Advocate for the Petitioner
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 18th JULY, 2023

ORDER :

1. The petitioner is aggrieved by the order passed by Civil Judge, Senior Division, Nanded, below Exhibit-129 in Special Civil Suit No.38 of 2013, thereby allowing the application filed by original defendant Nos.1/4 and 1/5, for amendment in the written statement.

2. The petitioner/plaintiff filed suit through power of attorney holder of the company for specific performance of contract. The suit was opposed by the defendants by filing written statement. The plaintiff's evidence was recorded, and

the evidence affidavit of of defendant No.1/5 is filed on 10/11/2022. Thereafter, Application exhibit-129 is filed seeking amendment in the written statement, by way of amendment. It is claimed that the power of attorney holder of the company has concealed facts regarding registration and existence of the company. The plaintiff company was incorporated on 23.06.2004, however, within a few months from its incorporation, the company was dissolved. This fact came to the knowledge of the defendants in the month of November, 2022, hence, they wanted to incorporate it in their written statement. The application was opposed by the plaintiff. The Trial Court has allowed the application. Hence, the present petition.

3. Heard the learned advocate for the petitioner. Perused the writ petition memo, annexures thereto, and the impugned order.

4. The application is allowed by the Trial Court by observing that the defendants are trying to bring before the Court, the fact about existence of the plaintiff company. In such situation, amendment is necessary for deciding the dispute effectively and finally. Despite due diligence, the defendants were not aware about the facts mentioned in the

proposed amendment. Hence, the application is allowed by the Trial Court.

5. The impugned order is passed by the Trial Court in consonance with the settled legal position. Since the amendment would enable the Trial Court to decide the dispute between the parties effectively, no fault can be found in the order impugned in the present petition. There is no illegality or perversity in the order impugned in the present petition. The writ petition being devoid of merit is dismissed.

[NITIN B. SURYAWANSHI]
JUDGE

S.P Rane