

drp

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11864 OF 2023

Hajrabi Maheboob Hannure and Another PETITIONERS

VERSUS

Hanumantrao Nagorao Kothawale and Another RESPONDENTS

.....
Mrs. Almas Abdul Quader, Advocate for the petitioners
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 25th SEPTEMBER, 2023

ORDER :

1. Petitioners are aggrieved by order passed by learned Joint Civil Judge, Junior Division, Kallam, below Exhibit-79 in Regular Civil Suit No. 259 of 2012, thereby allowing the application filed by respondent / defendant No.2 under Order 6, Rule 17 of the Civil Procedure Code, for amendment in the counter claim.
2. Having heard learned advocate for petitioners and on going through the memo of writ petition, documents placed on record, and the impugned order, this Court is of the view that there is no illegality or perversity in the impugned order. The Trial Court has allowed the application holding that if amendment is allowed, it will help Trial Court to effectively adjudicate the dispute between

the parties. The suit is yet to be decided on merits and burden lies on defendant to prove that he is dispossessed and / or obstructed by plaintiff.

3. Order impugned in present petition is in consonance with the settled legal position that amendments are to be liberally allowed. Petitioners are entitled to challenge amendment and / or contest it on all possible grounds available to them, including the point of limitation.

4. With these observations, writ petition is dismissed.

[NITIN B. SURYAWANSHI]
JUDGE