

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9144 OF 2022

1. Baburao Gundappa Dongaonkar
Deceased Through L.R's
 2. Shri. Ajay Baburao Dongaonkar
 3. Sau. Smita Girish Sawant
 4. Through G.P.A. i.e. Petitioner No. 2,
Ajay Baburao Dongaonkar
- Petitioner

Versus

1. Maharashtra State Road Transport
Corporation, Through its Divisional
Controller, Divisional Office at Latur.
 2. Depot Manager, State Transport
Udgir State Transport Depot, Udgir, Latur.
- Respondents

Mr. P.R. Nangare, Advocate for the petitioner.

Mr. A.D. Wange, Advocate for respondent No. 1.

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 5th JULY, 2023

ORDER :

1. The petitioners are aggrieved by the order passed by learned Joint Civil Judge, Junior Division, Udgir, below Exhibit-62 in Regular Civil Suit No. 25/2016.

2. Petitioner/plaintiff filed suit for perpetual injunction against the defendants praying that the defendants be restrained from terminating the license agreement dated 29.04.2015 till the completion of license period i.e. 30.04.2020. During the

pendency of the suit, petitioner filed amendment application Exhibit-62 for placing on record revised guidelines issued by the respondent dated 10.08.2020. Clause 2 of the said guidelines provides that, if the original licensee expires during the license period and license premise is being operated by his legal heir then further 14 years extension should be granted.

3. Said application is opposed by the defendants on the ground that the suit is for simplicitor injunction and therefore application is not tenable, since the agreement period has ended in April-2020, application is only filed with a view to prolong the suit and to continue the possession. The Trial Court has rejected the application. Hence, the present petition.

4. Heard the learned advocate for the petitioners and learned advocate for respondent No. 1. Perused the memo of writ petition, annexures thereto and the impugned order.

5. Though, it is a fact that agreement period has come to an end in the month of April-2020, there appears substance in the contention of the petitioner that revised guidelines dated 10.08.2020 are required to be taken into consideration while deciding the suit on merits. Since, the said guidelines are subsequent to the filing of the suit, these being subsequent

developments the Trial Court while deciding the suit on merits needs to take them into consideration. The impugned order passed by the Trial Court is contrary to the settled legal position that amendment is to be liberally allowed.

6. The objection of the respondent about the merit of the amendment and applicability of the guidelines can be considered by the Trial Court at the time of final adjudication of the suit. In the light of the above, the impugned order cannot be sustained. Hence, the following order:

ORDER

- I] Writ petition is allowed.
- II] Impugned order dated 24.03.2022, passed by Joint Civil Judge, Junior Division, Udgir, below Exhibit-62 in Regular Civil Suit No. 25/2016, is hereby quashed and set aside.
- III] Application Exhibit-62 is allowed.
- IV] Since the suit is of the year 2016, hearing of the suit is expedited and Trial Court shall make every endeavour to decide the suit within six months from the date of receipt of writ of this order.

[NITIN B. SURYAWANSHI, J.]