

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

WRIT PETITION NO.12989 OF 2023

1. Deepak s/o Chandrakant Mahajan
2. Kiran s/o Chandrakant Mahajan
3. Pooja d/o Chandrakant Mahajan ...Petitioners

Versus

1. Chandrakant s/o Sripatrao Mahajan
2. Sow. Sunita w/o Chandrakant Mahajan
3. Shamsher Khan s/o Khajakhan Pathan
4. Ranjit s/o Sunil Chamle
5. The Sub Registrar No.2
6. Stamp District Collector, Latur ...Respondents.

Mr. Ganesh Asaram Gadhe, Advocate for Petitioners.

Mr. S.P. Tiwari, AGP for Respondent Nos.5 & 6.

...

CORAM : S.G. MEHARE, J.

DATED : OCTOBER 18, 2023

ORDER :-

1. Heard learned counsel for the petitioners.
2. The petitioners are the plaintiffs. A suit was for declaration, partition, separate possession, and perpetual injunction. After filing the suit, the plaintiffs amended the plaint, and the defendants/respondents filed the consequential amendment in their written statement. However, the plaintiffs had objected that the

additional statements made beyond the amendment of the plaint are not allowed under Order 8 Rule 9 of the Civil Procedure Code.

3. Learned counsel for the petitioners would submit that the defendants have brought a new case. Hence, the additional statements made in consequence of the amendment of the plaint were to be struck down. To bolster his arguments, he relied on the case of Gobinder Singh Vs. WG. CDR. Pritam Singh and Others, 1999 (50) DRJ of the Delhi High Court. In the said case, it has been observed that additional statements incorporated beyond the permissible limit may be directed to be struck off. It was a case wherein the amendment was sought to the written statement under Order 6 Rule 17 of the Civil Procedure Code. By seeking an amendment to the pleading, the parties have to mention the proposed amendment in the application itself. If such an application is allowed, in those circumstances, the party proposing the amendment cannot make an additional statement beyond the permissible limit, and in those circumstances, such an additional statement would be struck off.

4. Here, the plaintiffs had amended the plaint, and by way of consequences, the defendant replied to amended pleadings and made further statements in a written statement. The Court is of the view every party has a right to reply to the facts brought by way of amendment in a suit not restricted to the said amendment but may also explain by additional statement provided such explanation or

additional statement must be relevant. For example, if the amended portion was the pleading in the plaint served upon the defendant, does the plaintiff have control over the defendant's statements in the written statement? Similar is the position where the pleadings are amended after presenting the plaint and written statement. The right to defend the suit cannot be denied, by imposing restrictions on the additional reply to the amendment of the pleadings. In the circumstances, it cannot be said that there were restrictions placed on the defendants to reply only to the extent of the proposed amendment.

5. Perused the impugned order passed by the learned 4th Civil Judge Senior Division, Latur below Exhibit-81 in R.C.S. No.179 of 2018 dated 27.03.2023. The order is legally correct and proper. There is no substance in the petition. Hence, the petition stands dismissed at the admission stage.

(S. G. MEHARE, J.)