



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

WRIT PETITION NO. 15151 OF 2023

**SHIVLAL RAMDAS PAWAR AND ANOTHER
VERSUS
SUNITA RAMESH PAWAR**

...

Advocate for the Petitioners : Mr. Jadhavar Rajendra Krishnath

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CORAM : SHAILESH P. BRAHME, J.

DATE : 12th DECEMBER 2023.

Per Court :

. Heard the learned Counsel for the petitioners.

1. The petitioners are challenging an order dated 11.07.2023, allowing application at Exhibit-11 submitted by the respondent/plaintiff for amendment to plaint.

2. The learned Counsel for the petitioners submits that proposed amendment is changing the boundaries of the suit land. The boundaries are already placed on record in the form of sale deed. It is impermissible for a party to change the boundaries which are mentioned in the registered sale deed without there being any registered document or permission of Competent Authority. Learned Counsel further submits that this will cause grave prejudice and it changes the complexion of the proceedings. The amendment proposed is not necessary to decide the controversy involved in the matter.

According to him, the learned Judge committed perversity and patent illegality in permitting the respondent to amend the plaint.

3. The respondent has filed RCS No.299/2020 for perpetual injunction. The trial has not been commenced. Before that the parties have more liberty to seek amendment to the pleadings. The conclusion drawn by the learned Judge is correct and cannot be faulted. Though adequate reasons have not been assigned for allowing application at Exhibit-11, that would not vitiate the order impugned.

4. The submissions of the learned Counsel regarding the inconsistent boundaries and without want of permission of the Competent Authority, are merits of the matter. If the respondent/plaintiff is permitted to amend the plaint, simultaneously the petitioners can also be permitted to amend the written statement and raise a challenge or objection for the proposed pleadings.

5. I do not see any perversity or error of jurisdiction in the impugned order. The writ petition is dismissed. However, the petitioner is entitled to amend the written statement, if required.

[SHAILESH P. BRAHME, J.]

Najeeb.