



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

WRIT PETITION NO. 13553 OF 2023

**SHAIKH RAMIZODDIN NASIRODDIN
VERSUS
SHAIKH ABDUL SHAKUR RAFIYODDIN AND OTHERS**

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Advocate for Petitioner : Mr. G.R. Syed

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CORAM : SHAILESH P. BRAHME, J.

DATE : 12th DECEMBER 2023.

Per Court :

. Heard.

1. The petitioner is challenging order dated 08.06.2023 passed by the learned 2nd Joint Civil Judge, Junior Division, Jamkhed in RCS No.83/2010, permitting the respondents/plaintiffs to amend the plaint. The petitioner is the defendant in RCS No.83/2010 filed for declaration and injunction.

2. The subject matter is the property at Survey No.3334/1b and 333/1b situated at Jamkhed, Dist. Ahmednagar. The petitioner caused obstruction and challenged the title of the respondents. Hence the suit is required to be filed. When the matter was at the stage of recording of oral evidence of the respondents, application at Exhibit-80 was filed for amendment to plaint. It was objected by the petitioner. By the impugned order, the application is allowed.

3. Learned Counsel submits that the application (Exhibit-80) does not spell out due diligence. The respondents are changing description the suit property which is likely to create confusion. The nature of the proceeding is likely to be changed. The proposed amendment could have been made earlier. The impugned order is perverse and unsustainable.

4. The proposed amendment is in respect of the description of the property. The original description of the suit property does not have Gram Panchayat property no.1055 which is sought to be incorporated. The proposed amendment provides better particular and nothing else.

5. The cross-examination of the plaintiff witness is yet to commence. The proposed amendment is for identification of property. No prejudice will be caused to the petitioner. The petitioner is entitled to file additional written statement if required and the nature of the proceeding are not going to be changed. I do not find any perversity and illegality in the impugned order. The writ petition is dismissed. The petitioner shall have liberty to file written statement challenging proposed pleadings, if required.

[SHAILESH P. BRAHME, J.]

Najeeb.