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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10473 OF 2023

Ramrao Jalindar Mete and Others

PETITIONERS

VERSUS

Sachin Yashwant Mete and Others

RESPONDENTS

.....

Mr. Suraj R. Bagal h/f Mr. B. N. Gadegaonkar, Advocate for
petitioners

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 23rd AUGUST, 2023

ORDER :

1. The petitioners are aggrieved by the order dated 24th August, 2022 passed by learned Second Joint Civil Judge, Junior Division, Latur below Exhibit-22 in Regular Civil Suit No. 32 of 2018, thereby allowing the application filed by the respondent No.1 – plaintiff for amendment of plaint.

2. Respondent No.1 – plaintiff has filed the suit for removal of encroachment and for possession of the portion encroached by the defendants. In the suit, the plaintiff has led evidence. Thereafter, he has filed present application Exhibit-22 seeking amendment to the plaint, contending that the four boundaries of the suit property are inadvertently remained to be mentioned in

the plaint and he may be permitted to amend the plaint, thereby mentioning boundaries of the suit property. In spite of opposition on the part of the petitioners – defendants, the said application is allowed by the Trial Court. Hence, the present petition.

3. Heard learned advocate for the petitioners. Perused the memo of the petition, documents annexed with it and the impugned order.

4. It is the contention of the petitioners that the amendment is sought so as to withdraw the admissions given by the plaintiff in the suit and there is no due diligence on the part of the plaintiff in moving the amendment application.

5. There is no merit in both the arguments of the petitioners, in as much as the four boundaries of the suit property are sought to be mentioned by the plaintiff, by way of amendment, which according to him were inadvertently remained to be mentioned. Admittedly, the suit is for removal of encroachment . Hence, if the amendment sought by the plaintiff is permitted, no prejudice is likely to be caused to the petitioners – defendants. The amendment would enable the Trial Court to effectively resolve the dispute between the parties. For being not diligent,

the Trial Court has already imposed cost of Rs.1000/-, hence that argument is also unacceptable.

6. There is no illegality or perversity in the order impugned in the present petition. No case is made out by the petitioners to warrant interference in extraordinary writ jurisdiction. The writ petition being devoid of merit is dismissed.

[NITIN B. SURYAWANSHI]
JUDGE

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