

AGK

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.14301 OF 2023

Kirti Gold Agrotech Ltd., i.e., Kirti
Gold Ltd. & Kirti Agrotech Ltd.
through its Manager ... Petitioner

V/s.

The Deputy Chief Executive Officer
(Gram Panchayat) Z.P., Solapur & Ors. ... Respondents

Mr. Prasad Kulkarni i/by Mr. V.H. Narvekar for the
petitioner.

Mr. Sumedh Modak i/by Mr. Vijay Killedar for
respondent Nos.2 and 3.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 7, 2023

P.C.:

1. The petitioner filed an application under Order 1 Rule 10 read with Order 6 Rule 17 of the Code of Civil Procedure, 1908 to substitute the name of Kirti Agrotech Limited in place of Kirti Gold Agrotech Ltd.

2. The original plaintiff filed a suit challenging action on behalf of the defendant/Gram Panchayat. Evidence is over. The suit is fixed for arguments. At this stage, the petitioner filed an application under Order 1 Rule 10 read with Order 6 Rule 17 of the Code of Civil Procedure, 1908.

3. On perusal of the application, it appears that the application though purported to be filed under the aforesaid provisions, the application is to correct mis-description of the plaintiff. For the said purpose, application under Order 6 Rule 17 or Order 1 Rule 10 of the Code of Civil Procedure, 1908 is not required. By correcting mis-description of the plaintiff, no prejudice will be caused to the defendant as both the parties proceeded with the trial as if it is the substituted plaintiff who instituted the suit. Therefore, no further evidence is required to be led on behalf of the plaintiff and the Trial Court need to decide the suit on the evidence already adduced by the parties. Hence, following order:

- a) The impugned order dated 7 November 2023 passed by the learned 4th Joint Civil Judge Senior Division, Solapur belowe Exhibit-131 is quashed and set aside;
- b) The plaintiff is permitted to substitute Kirti Agrotech Ltd. in place of Kirti Gold Agrotech Ltd;
- c) Amendment to be carried out within one week from today.

4. The writ petition stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)