

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 7094 OF 2019**

Prabha Arun Siddha and Ors.

.. Petitioners

Versus

Kusum Charudatta Shriyan and Ors.

.. Respondents

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- Mr. Robin Jaisinghani a/w. Jacinta D'Silva for Petitioners
 - Ms. Sayalee Rajpurkar i/by Kadam & Company for Respondents
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CORAM : MILIND N. JADHAV, J.**DATE : FEBRUARY 10, 2023.****P.C.:**

1. Heard Mr. Jaisinghani, learned Advocate for Petitioners and Ms. Rajpurkar, learned Advocate for Respondents.
2. Perused the impugned order dated 21.11.2016 passed in Chamber Summons No. 1180 of 2015 in S.C. Suit No. 7519 of 2006.
3. Petitioners being Defendants in the suit before the learned Trial Court filed the Chamber Summons seeking to add, edit certain words and statements in paragraph Nos. 1 and 6 of their written statement. The schedule of proposed amendment is annexed to the Chamber Summons. Petitioners sought three specific changes in paragraph No.
5. Petitioners desire to clarify the fact on the Plaintiff's own showing that he was not a minor at the time of execution of the subject document (Lease Deed). The clarification sought for in paragraph

No.1 of the schedule of proposed amendment would not be required and it is clarified by this Court that the date of birth and the date of execution will have to be looked into by the learned Trial Court to determine as to whether the Plaintiff was not a minor on the date of execution of the lease deed. Hence the clarification sought in paragraph No.1 would not survive.

4. All contentions of the parties with respect to this specific clarification are however expressly kept open.

5. Perusal of the impugned order shows that save and except the aforesaid clarification, the learned Trial Court has not dealt with the other two clarifications /issues sought for in paragraph Nos. 2 and 3 of the schedule of proposed amendment. Perusal of the same would reveal that the clarification sought for by the Petitioners in paragraph Nos. 1 and 6 of the written statement would be in the nature of arguments and both the parties would rely on the documents exhibited and therefore they are at liberty to make such submissions available to them in law. Mr. Jaisinghani however would submit that though they are in the nature of arguments parties be permitted to make submissions in the event if any consequential reliefs are sought, considering that the suit is for declaration.

6. Be that as it may, all contentions of the parties are expressly kept open, in so far as the issue in the schedule of proposed amendment in paragraph Nos. 2 and 3 thereof is concerned.

7. Considering that the suit is of the year 2006, the learned Trial Court is requested to dispose of the suit within 12 months from today.
8. Ms. Rajpurkar would submit that considering the long hiatus, the Respondents are also ready to offer a settlement. If that be the position, parties may explore the same and submit their terms to the learned Trial Court.
9. With the above directions Writ Petition is disposed.

[MILIND N. JADHAV, J.]

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