

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

WRIT PETITION NO.7225 OF 2021

Sandhya Ashok Katapal & Anr. Petitioners

versus

Devidas Jaisingh Jadhav & Ors. Respondents

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- Mr. Rohan D. Kaiche, Advocate for Petitioners.

**CORAM : SARANG V. KOTWAL, J.
DATE : 17th APRIL 2023**

P.C. :

1. Heard Mr. Rohan D. Kaiche, learned counsel for the
Petitioners.

2. The Petitioners are the Original Defendant Nos.1 and 2
in Regular Civil Suit No.715 of 2012 on the file of 12th Joint Civil
Judge, Senior Division, Nashik. The Respondent Nos.1 to 5 are
the Original Plaintiffs and Respondent Nos.6 to 10 are other
Defendants.

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3. The Petitioners have challenged the order dated 01/02/2020 passed by the learned Trial Judge below Ex.77 in the said suit. The application was made under Order VI Rule 17 of CPC for amending the plaint. Learned Judge allowed that application made by the Plaintiffs. The amendment which was allowed mentions that the Original Defendant No.3 was not an agriculturist and therefore he could not have transferred those lands. The details regarding agricultural land and the sale transaction were mentioned in the proposed amendment.
4. Learned counsel for the Petitioner submitted that the original plaint already mentions that the Defendant No.3 was not an agriculturist and therefore this further amendment was not necessary.
5. I have considered these submissions. In the original plaint, there are various prayers. As far as the Petitioners are concerned, there are two prayers i.e. the prayer clause (B) and (C) for declaration that the two sale deeds dated 14/10/1998 be

declared as illegal. Learned counsel for the Petitioners submitted that the Petitioners have purchased this land from the Original Defendant Nos.3 and 4. For deciding the suit, one of the objections raised by the Plaintiff about the sale deed was, that the sale deed could not have been executed because the parties to the sale deed were not the agriculturists. In the original plaint it was mentioned that the Defendant No.3 had no evidence to show that he was an agriculturist and yet he had purchased agricultural land and therefore this transaction was illegal. In the amendment which was allowed, it was elaborated as to how the Defendant No.3's name was introduced in the revenue record, though the said Defendant was not an agriculturist. It was also mentioned in the amended portion that the Defendant No.3 created false evidence. In that portion it was specifically mentioned that present Petitioners i.e. the Defendant Nos.1 and 2 were also not agriculturist and therefore the sale deeds were liable to be declared as illegal in view of the provisions u/s 63 of the Maharashtra Tenancy and Agricultural Land Act, 1948.

6. The original plaint had mentioned that the Defendant No.3 had no evidence to show that he was an agriculturist and the sale transactions entered into by him were not legal. That portion is elaborated in the amended portion. The Petitioner's status is also challenged in the amended portion. This is an important issue which the Trial Court will have to decide and therefore the amended portion is important for decision of the suit. The Defendants have sufficient opportunities to meet these pleadings. The learned Trial Judge has observed that the object of Order VI Rule 17 is that the Courts should try the merits of the case that comes before them and should consequently allow all the amendments that may be necessary for determining real question in controversy between the parties, provided it does not cause injustice or prejudice to the other side.

7. According to the Plaintiffs, they came to know about the Defendant using forged documents to obtain order, through the application made under Right to Information Act. They were not aware of this. In this view of the matter, I do not see any

infirmity in the impugned order passed by the Trial Court allowing the amendment application. Consequently, the Petition fails and is dismissed accordingly.

(SARANG V. KOTWAL, J.)