

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9429 OF 2019**

Shri. Narayan Damodar Pake

.. Petitioner

V/s.

Tarachand N. Jain and Ors.

.. Respondents

...

Mr. Manoj Mhatre a/w. Mr. Rahul Tiwari, for Petitioners.

Mr. Pratap Patil, for the Respondents.

...

CORAM : SANDEEP V. MARNE, J.

Dated : August 17, 2023.

P.C. :

1. By this petition, Petitioner challenges order dated September 29, 2015 passed by the Civil Judge Junior Division, Murud rejecting application for amendment of the plaint. Order dated February 5, 2016 rejecting application for recall of the order dated September 29, 2015 is also under challenge.

2. One of the main reasons why the Trial Court has refused permission to amend the plaint is filing of Regular Civil Suit No. 29/2013 seeking relief in respect of the proposed amendment.

3. The learned counsel appearing for Petitioner, on instructions of Petitioner who is present in Court, would submit

that the Petitioner is willing to withdraw Regular Civil Suit No.29/2013 and that the events and reliefs forming part of Regular Civil Suit No. 29/2013 be allowed to be incorporated by way of amendment in the plaint.

4. Mr. Patil, learned counsel appearing for the Respondents would submit that if Petitioner withdraws Regular Civil Suit No. 29/2013, his clients would not have any objection to the amendment sought to be introduced by application at Exhibit-56.

5. In view of the consensus prevailing amongst the learned counsels for the parties, the Writ Petition can be disposed of by passing the following order :

ORDER

(i)Petitioner shall withdraw Regular Civil Suit No. 29/2013 within a period of four weeks from today.

(ii) Subject to Petitioner withdrawing Regular Civil Suit No. 29/2013, order dated September 29, 2015 is set aside and application for amendment filed at Exhibit-56 stands allowed in terms of the prayers made therein.

6. Writ Petition is accordingly **disposed of**.

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SANDEEP V. MARNE, J.