

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO. 2357 OF 2023

IN

SUIT NO. 1215 OF 2019

Jitendra Gorakh Megh

...Applicant/Petitioner

Versus

Gorakh Govind Megh & Anr.

...Respondents/Defendants

* * *

- Mr. Jitendra Gorakh Megh (Party in person – Petitioner).
- Ms. Eesha Jaifalkar i/b S.R. Page, for Defendants.

* * *

CORAM : MANISH PITALE, J.

DATE : 03rd NOVEMBER, 2023.

P. C. :

1. By this application, the Applicant (Original Plaintiff) is seeking amendment of the plaint.

2. The original suit is filed for partition, wherein Defendant No. 1 is father of the Plaintiff and Defendant No. 2 is his sister.

3. The defendants are represented by advocates.

4. In respect of the present application, the Defendants had appeared before this Court through advocates on 31st July, 2023. It appears that time was granted to the Defendants to file their reply affidavit to the present application.

5. Subsequently, on 04th October, 2023, this Court recorded the fact that the Defendants had sufficient opportunity to file their

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reply affidavit. In that light, as a matter of last chance, the Defendants were granted further time of two weeks to file reply affidavit and the application was directed to be listed before this Court.

6. Till date, the Defendants have failed to file reply affidavit in the present application. Even today time is sought to file reply affidavit. Since last chance was already given, this Court rejects the prayer for grant of time made on behalf of the Defendants.

7. The learned Counsel appearing for the Defendants today submits that the Plaintiff could very well have incorporated the proposed amendment when the plaint was extensively amended on an earlier occasion. It is submitted that allowing such an amendment would unnecessarily delay the proceedings and that irrelevant material is sought to be brought on record in the present application.

8. The Applicant (Plaintiff appearing in person) submits that there are certain ancestral properties that need to be made subject matter of the present suit and it being the suit for partition, all the properties would be before this Court for passing appropriate decree. It is further submitted that the Applicant has been able to procure documents, including Bank Statements etc., which would show the trait of funds, to indicate the manner in which ancestral property was

utilized by the Defendant No. 1.

9. While this Court is of the opinion that some of the material proposed to be placed on record by way of this amendment could indeed have been placed on record with the earlier amendment granted by this Court, that itself cannot be a ground to reject the present application.

10. Even otherwise, the Defendants have not been able to show as to how allowing this amendment would change the nature of the suit in the present case.

11. The present suit is admittedly at pre-trial stage and therefore, it would be in the interest of justice, that the present application is allowed.

12. Accordingly, the application is allowed in terms of the prayer made therein.

13. The amendment be carried out within four weeks from today.

14. The Applicant / Plaintiff shall serve the amended pleadings on the Defendants, within one week of carrying out the amendment.

15. The Defendants would be at liberty to respond in

accordance with law, including filing of additional written statement, if so advised.

16. List the Suit for direction on **18th December, 2023.**

(MANISH PITALE, J.)