



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.6077 OF 2023

Motiram @ Motising Gopala Solanki (Dead), through LR's and others .Vs. Uttam S/o
Attmaram Raut and others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri T.S. Deshpande, Advocate for petitioners.

CORAM : ANIL S. KILOR, J.

DATED : 15/09/2023

1. The application moved by the petitioners under Order 6 Rule 17 of the Code of Civil Procedure at the appellate stage came to be rejected by observing that, the amendment sought by the petitioners is with a specific purpose to patch up the lacuna which are noticed and recorded by the learned trial Court in the judgment.

2. The learned lower appellate Court has recorded the reasons in Paragraph No.11, which read thus:

"11. As stated earlier, amendment application has been moved by plaintiff in appeal, in above-described facts and circumstances, when suit has been dismissed by learned trial Court on merit. Judgment appears to have been passed by learned trial Court on certain reasonings. By noticing those reasonings, it appears that plaintiff wants to patch up the lacuna. No exceptional case has been made out so as to allow the amendment application at appellate stage. In such circumstances, if the plaintiff is allowed to seek the amendment in the appeal, after disposal of suit, it can lead to abuse of process of law and parties would not let the proceeding come to an end. As such, amendment application cannot be stated to be made in good faith."

3. Considering the reasons recorded by the learned lower appellate Court and the stage at which the application filed for amendment, I do not find any error committed by the learned lower appellate Court in dismissing the application for amendment.

Accordingly, the writ petition is **dismissed**.

JUDGE

C.L.Dhakate