



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

Writ Petition (WP) No. 6174 of 2023

Pundlik S/o Waghaji Shelke
Versus
Shrikrushna S/o Pundlik Shelke and another

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

Court's or Judge's Order

Shri P.R.Agrawal, Advocate for the petitioner.

CORAM : ANIL S. KILOR, J.
DATED : 14th SEPTEMBER, 2023.

Heard.

2. The application for amendment moved when the suit was fixed for judgment, came to be rejected vide impugned order dated 8th September, 2023, the same is under challenge in this writ petition.

3. It is the case of the petitioner that by way of amendment, he is simply asking for amendment in the prayer clause and thereby relief of possession was sought to be added, which would not change the nature of the suit. Despite the same, the application came to be rejected by holding that the proposed amendment would change the nature of suit.

4. Considering the submission made by the learned counsel for the petitioner, I have perused the record and the impugned order.

5. It appears that on certain *prima facie* observations made by this Court in Writ Petition No. 6827 of 2017 vide order dated 8th February, 2022, the application for amendment came to be filed on 28th August, 2023 based on such findings.

6. In the proposed amendment, it is the case of the petitioner that cause of action for filing a suit for possession was arose on 10th July, 2015.

7. Thus, it is evident that the application for amendment was filed after about eight years. Hence, in absence of due diligence, the application rejected by the learned trial Court is just and proper, I do not find any error committed in the same. Accordingly, writ petition is dismissed.

[ANIL S. KILOR, J.]