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

WRIT PETITION NO. 7983 OF 2023

(Bharat s/o. Uddhav Khalse and another...Vs.... Gajanan s/o. Pralhad Pande)

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Mr. S.S. Deshpande, advocate for petitioners.

CORAM : AVINASH G. GHAROTE, J.
DATE : 12-12-2023

The petitioners are aggrieved by the order 19.9.2023 by which the application for amendment of the plaint filed by plaintiff before the commencement of the trial has been disposed of on the ground that the figures given in the amendment did not tally with the figures in the plaint, which position requires more specification and clarification, which position was admitted by the learned counsel the petitioners on account of which, the application was disposed of by permitting the plaintiff to file a fresh application, if necessary, which would then be decided on merits. It is contended that such a course of action was not permissible for the learned trial Court and all that which was required to do was to either allow or dismiss the application and permitting the plaintiff to file a fresh application would amount to filing up a lacuna.

2. At the outset, what is necessary to be noted

is that the application was filed at the stage when the trial is yet to commence. In case, discrepancy is noticed by the Court, which being pointed out as agreed even by the learned counsel for the petitioners, the court would be correct in not functioning mechanically by simplicitor rejecting the application. All that has been done by the impugned order, is to direct filing of a correct application, which the petitioners would equally have a right to oppose, considering which, I do not see any reason to interfere in impugned order, therefore, the petition is dismissed. No costs.

[AVINASH G. GHAROTE, J]

Belkhede