



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
WRIT PETITION NO. 8558 OF 2022

1. Namdeo S/o Maroti Fulzade,
Aged 78 years, Occupation : Agriculture
2. Ukanda S/o Maroti Fulzade,
Aged 74 years, Occupation : Agriculture
3. Narayan S/o Maroti Fulzade,
Aged 72 years, Occupation : Agriculture
4. Janabai Dashrath Kharat,
Aged 71 years, Occupation : Agriculture
All resident of Chikhli, Tahsil Chikhli
District Buldhana

...Petitioners

// VERSUS //

1. Balaji Sansthan Chikhli, at Chikhli, District
Buldhana, through its President
M.M.Lahoti, aged 82 years, resident of at
Post and Tahsil Chikhli, District Buldhana
2. Ramdas Kalyanji Nimavat,
Aged Major, Secretary,
Balaji Sansthan, Chikhli, Resident of at
Post and Tahsil Chikhli, Dist. Buldhana

... Respondents

Shri S.S.Deshpande, Advocate for the petitioners.

CORAM : ANIL S. KILOR, J.
DATED : 4th OCTOBER, 2023.

ORAL JUDGMENT :

The order dated 20th October, 2022 passed by learned Civil Judge, Junior Division, Chikhli in Regular Civil Suit No. 48 of 2017, rejecting the application for amendment filed by the petitioners who are

the plaintiffs in a suit for declaration and permanent injunction, is under challenge in this writ petition.

2. Admittedly, the application was filed before the commencement of the trial and the proposed amendment was in pursuance to certain serious allegations made by the defendant in the written statement. This position has been made clear by the plaintiffs in the application more particularly in paragraph 1 of the amendment application. However, the proposed amendment was considered as rejoinder to the written statement and rejected the application by the learned trial Court.

3. After going through the application for amendment, I am of the opinion that as the defendants have made certain pleadings thereby making certain allegations which are of serious nature, if the amendment is not allowed, the said allegation would go unchallenged. Hence, I am of the considered view that the learned trial Court ought to have allowed the amendment application. Accordingly, I pass the following order.

- i. The writ petition is allowed;
- ii. The order dated 20th October, 2022 passed by the learned Civil Judge, Junior Division, Chikhli, District Buldana in Regular Civil Suit No. 48 of 2017 is hereby quashed and set aside and the application for amendment Exhibit 27 is allowed.

[ANIL S. KILOR, J.]