



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

33 WRIT PETITION NO. 3145 OF 2015

MAHANANDA UMESH GULVE AND OTHERS
VERSUS
VINOD GOVINDRAO BHANUSHALI

Mr. V. S. Undre, Advocate for the petitioners
Mr. N. S. Takale, Advocate for respondent no.1.

CORAM : R. M. JOSHI, J.

DATE : 18th NOVEMBER, 2024

PER COURT :-

1. During the course of hearing it is submitted on behalf of the learned counsel for the respondent that in the plaint particularly in paragraph no. 6 thereof it is stated that "every time plaintiff had used to issue a receipt on a white blank paper". It is thus the contention of the learned counsel for the respondent that in the plaint there is no averment that the defendant used to issue a receipt and as such for want of pleadings, application could not have been entertained by the learned Trial Court.

2. Perusal of the entire plaint clearly indicates that this is apparent error/ inadvertence on the part of the plaintiff to mention that the receipts were issued by the plaintiff instead of defendant. However, the said error deserves to be corrected. Hence, leave is granted to the

petitioner to apply to the learned Trial Court for correcting the said error. The learned Trial Court to pass appropriate order on such application if moved. Needless to say that the impugned order deserves to be set aside and that it is open for the learned Trial Court to consider the said pleadings while deciding application Exhibit 61.

3. In view of the above, petition stands allowed. Impugned order is set aside. As discussed herein above, it is open for the petitioner/plaintiff to move an application for amending the plaint. Trial Court to consider the same and pass appropriate order. Needless to say the contentions of the respondent in respect of the amendment are kept open and to be decided in accordance with law.

(R. M. JOSHI, J.)

ssp