



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

25 WRIT PETITION NO. 8345 OF 2024

PARAG SUBHASH AHIRE

VERSUS

RAJENDRA RAMDAS BORSE AND OTHERS

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Advocate for the Petitioner : Mr. Salunke Sudarshan J

Advocate for Respondent No.1 : Mr. Pratap P. Mandlik

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CORAM : ARUN R. PEDNEKER, J.

DATE : 12th AUGUST, 2024

PER COURT:

1. Heard.
2. The petitioner challenges the impugned order dated 08.05.2024, below Exhibit 61, passed by the learned Civil Judge, Senior Division, Dhule in Special Civil Suit No.66 of 2017, whereby the civil court was pleased to allow the amendment application filed by the plaintiff.
3. It is the case of the petitioner that respondent no.1 / plaintiff had filed the suit against respondents no.2 and 3 for cancellation of the sale deed and perpetual injunction in the suit property which is Plot No.106, admeasuring 262Sq.Mtrs., situated in Survey No.29/2 and 30/2 at village Walwadi, Taluka and District Dhule. The suit property is owned by the plaintiff. Defendant no.2 is stated to be the real brother of the plaintiff, who have similar looks like plaintiff. It is the case of the plaintiff

that defendant no.2 taking the disadvantage of his looks sold the suit property to defendant no.1 on 08.06.2017 and executed an agreement to sale of the suit property without the knowledge of the plaintiff. As such, the suit was filed for cancellation of sale deed dated 08.06.2017 and for perpetual injunction restraining defendant no.1 not to create any third party interest in the suit. In the same suit issues are framed. Thereafter, during the pendency of the civil suit, defendant no.1 sold the suit property to the petitioner on 07.12.2022 and, as such, the application for amendment is moved by the plaintiff for making the purchaser as necessary party / defendant no.4 in the suit, so also, for injunction against defendant no.4 from interfering in the suit property or creating any third party interest in the suit. The said application for amendment is allowed.

4. Challenging the same the petitioner submits that by allowing the amendment the entire nature of the suit has changed. Such amendment ought not to have been permitted by the trial court.

5. However, the submissions of the learned counsel for the petitioner does not impress the court. The transfer of suit property is during the pendency of the suit, as such, the amendment is rightly allowed by the trial court.

6. In view of the same, no case is made out. The writ petition is dismissed.

[ARUN R. PEDNEKER, J.]

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