



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

19 WRIT PETITION NO. 9081 OF 2024

UTTARESHWAR SHANKAR LAWATE
VERSUS
KAMAL DHANANJAY KHANDEKAR ALIAS KAMAL SHANKAR LAWATE AND
OTHERS

...
Advocate for the Petitioner : Mr. Kore Ganesh J.

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CORAM : ARUN R. PEDNEKER, J.

Dated : August 26, 2024

PER COURT :-

1. Heard the learned counsel for the petitioner/original defendant No.1.
2. Regular Civil Suit No. 821/2016 is filed by the plaintiff/respondent No. 1 herein for partition of the suit property being ancestral property. In the plaint, due to typographical mistake the property is mentioned as Gat No. 616 instead of Gat No. 716. Hence, the application at Exh. 41 was filed by the plaintiff/respondent No. 1 herein for amendment of the pleadings, for rectification of the description of the property.
3. The said prayer is opposed by the defendant/petitioner on the ground that it will change the nature of the suit property and the application is filed at very belated stage after the commencement of the Trial.
4. The Trial Court has recorded that both the parties are aware about the nature of the suit as well as the suit properties and the defendants have not raised any objection regarding the description of the suit property nor the defendants have stated that certain properties are remained to be included in the description of the suit property. The Trial Court has thus allowed the application by imposing cost of Rs.1000/- on the plaintiff to be

paid to defendants by holding that if the amendment application is allowed, it will not change the nature of the suit nor it is going to withdraw any right accrued in favour of the defendants. Aggrieved by the impugned order, the present writ petition is filed.

5. After perusing the petition and considering the submissions of the learned counsel for both the parties, I hold that both the grounds on which defendants have taken objection for the amendment in the plaint are not available in the instant case since the parties are aware about the nature of the suit as well as suit properties and if the amendment application is allowed, there will be no change in the nature of the suit. No error is found in the order passed by the Trial Court. The writ petition sans merit and is dismissed accordingly.

(ARUN R. PEDNEKER, J.)

ssc/