



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 13945 OF 2024

M/s Balaji Nutrix Partnership
and Others

...Petitioners

Versus

Sagar UniExim Pvt Ltd & Ors

...Respondents

- Mr. K. B. Suryawanshi, Advocate for the Petitioners
- Mr. S. N. Kendre, AGP for the Respondents/State

CORAM : R.M. JOSHI, J

DATE : DECEMBER 19, 2024

PER COURT :

1. Petitioners are Original Defendants in Special Civil Suit No. 14/2022 filed by Respondent No. 2 on behalf of Respondent No. 1/Company. Petitioners filed their written statement and raised objections with regard to the maintainability of the suit for non-joinder of necessary parties.

2. It is thereafter application Exh. 58 came to be moved by Plaintiffs under Order VI, Rule 17 and Order 1, Rule 10 of Code of Civil Procedure for amendment to the pleadings and for addition of the Plaintiffs to the suit. This application was allowed by

impugned order dated 26.09.2024. These Defendants /Petitioners being aggrieved by said order, filed this Petition.

3. Heard learned Counsel for the Petitioner.

4. There is no dispute about the fact that it was the Petitioners/Original Defendants who had raised objection with regard to the maintainability of the suit for non-joinder of necessary parties. The stage of the suit is for completion of the pleadings and that trial has not commenced. Order VI, Rule 17 CPC permits amendment of the necessary pleadings and Order I, Rule 10 CPC enables the Court to add necessary parties to the suit. Thus, there was no impediment for the learned Trial Court to allow application filed by Plaintiffs for amendment of the plaint as well as addition of necessary parties.

5. Since it was the objection of the Defendants that all persons necessary for the decision of the suit are not joined as party, it was not open for these Defendants to take exception to the said order passed by the Trial Court by filing this Petition. This Court,

therefore, is of the view that the filing of the present Petition is nothing but an abuse of process of law. Hence, Petition stands dismissed with cost of Rs. 5,000/- (Rupees Five Thousand Only) payable to the High Court Bar Association, Bench at Aurangabad. The cost be paid within a period of four weeks from today.

(R.M. JOSHI, J.)