



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 13664 OF 2024

Kalpana Dilip Raipatrewar And Another
VERSUS
Kalawatibai Gangadharrao Burewar And Others

Mr. S. C. Bhosale, Advocate for petitioner

CORAM : R. M. JOSHI, J.

DATE : 14th DECEMBER, 2024

PER COURT :-

1. Heard.
2. This petition takes exception to the order dated 12.09.2023 passed below Exhibit 83 in R.C.S. No 123/2018 whereby the application for amendment of plaint came to be allowed.
3. Record indicates that suit is filed by plaintiff making allegation with regard to the encroachment being committed by the defendant of his property. Prayer was made for fixation of boundaries and perpetual injunction. Though there was allegation in respect of the encroachment, consequential relief of possession in both portion was not sought. This was sought to be done by amending the plaint.
4. Learned counsel for the petitioner submits that the nature of suit would get change if the amendment is made out.

5. Having regard to the plaint and the averments made therein, with introduction of the prayer for possession of the encroached portion if found, will not change the nature of the suit. Undisputedly, the suit is at the stage of pleadings of the parties. Further, the prayer claimed by the plaintiff is not barred by limitation.

6. In such circumstances, trial Court was fully justified in allowing the amendment. No prejudice will cause to the defendant by said order. It is open for the defendant to oppose the said contention by filing additional written statement.

7. Hence, there is no merit in the petition. Petition is dismissed.

(R. M. JOSHI, J.)

bsj