

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.9772 OF 2024

Maria Francis D'souza & Ors.

....Petitioners

V/S

Bandra Holy Family Hospital Society

....Respondent

Mr. Jagdish N. Jayale *for the Petitioners.*

Mr. Abhishek Ingale a/w Mr. Pradeep Kumar i/b M/s. C.R. Naidu
& Co. *for Respondent.*

CORAM: SANDEEP V. MARNE, J.

DATE : 12 NOVEMBER 2024.

P.C.:

1. The Petition challenges order dated 16 February 2023 passed by the Small Causes Court allowing the Application for amendment of the plaint as well as order dated 19 April 2023 extending the time limit for carrying out the amendment.

2. I have heard Mr. Jayale, the learned counsel appearing for the Petitioners and Mr. Ingale, the learned counsel appearing for the Respondent.

3. After having considered the submissions canvassed by the learned counsel appearing for the parties, it is seen that the

amendment in question is necessitated on account of the events that took place during years 2018 to 2022. Therefore, it cannot be said that the Plaintiff was not diligent enough in applying for amendment within reasonable time. Mr. Jayale's contention is that the plaint was already amended on five earlier occasions from 1998 to 2017 and that the Plaintiff cannot go on amending the plaint endlessly. In normal circumstances, what Mr. Jayale contends could have been right. In the present case the fifth amendment was carried out on 12 September 2017 and thereafter the Petitioner is accused of indulging in further unauthorized construction during the years 2018 to 2022. Those events will have to be brought on record by further amendment of the plaint. The sixth amendment is thus necessitated on account of alleged conduct of Petitioner. Therefore mere the numerical figure of amendments earlier carried out cannot be a reason for disallowing the amendment arising out of occurrence of subsequent events. Any delay in decision of the suit on account of amendments in plaint actually enures to be benefit of Petitioner/Defendant, whose possession of the premises would become unlawful only from the date of decree of the suit, if Plaintiff succeeds in the suit. I therefore do not find any valid reason to interfere in the impugned orders. Writ Petition is accordingly **rejected.**

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by
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(SANDEEP V. MARNE, J.)