

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5616 OF 2024

LVO Peter Almeida .. Petitioner
Versus
Loretta Ashton & Ors. .. Respondents

WITH
WRIT PETITION NO. 5617 OF 2024

Ivo Peter Almeida .. Petitioner
Versus
Loretta Ashton & Ors. .. Respondents

WITH
WRIT PETITION (ST) NO. 1540 OF 2024

Ramesh Jagannath Jadhav .. Petitioner
Versus
Loretta Ashton & Ors. .. Respondents

WITH
WRIT PETITION NO. 1267 OF 2024

Ramesh Jagannath Jadhav .. Petitioner
Versus
Loretta Ashton & Ors. .. Respondents

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- Ms. Deepali Deherkar for Petitioners in WP/5616/2024 & WP/5617/2024
 - Mr. Jahagirdar, Senior Advocate a/w Mr. Saurabh S. Oka for Petitioner in WPST/1540/2024 & WP/1267/2024
 - Mr. Vishal Kanade a/w Ms. Janhavi Joshi i/by Mr. J.M. Joshi for Respondent Nos. 1 to 3
 - Ms. Chaitrali Deshmukh for Respondent No. 14 in WPST/1540/2024
 - Mr. Rohit Sakhadeo for Respondent No. 14 in WP/1267/2024
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CORAM : MILIND N. JADHAV, J.

DATE : JULY 05, 2024

P.C.:

1. Heard learned Advocates appearing for the parties.
2. Order dated 22.12.2023 impugned in the present bunch of Writ Petitions pertains to allowing Applications filed under O. VI, R. 17 of the CPC by the learned Trial Court.
3. Mr. Jahagirdar, learned Senior Advocate would submit that the Suit was originally filed in the year 2019 seeking partition and possession of the suit property. He has drawn my attention to the reliefs prayed for in the said suit plaint which are at page Nos. 33-34 of the Writ Petition (St) No. 1540 of 2024. He would in his usual fairness submit that Applications seeking amendment were undoubtedly with respect to subsequent events which have been allowed by the learned Trial Court. However he has expressed one apprehension. He would submit that the relief prayed for by the Plaintiffs in the suit plaint as originally filed was in respect of the challenge maintained to the certain transactions and documents between the parties pertaining to the year 1968 and 1981. In that view of the matter, he would submit that allowing the amendment should not foreclose the right of the Defendants to take out an appropriate Application under O. VII, R. 11 of the CPC. Undoubtedly

such a right of the Defendants can never be foreclosed nor the Defendants can be precluded by the Civil Court from taking out such an Application as available to the Defendants in law under O. VII, R. 11, if so available. By the amendment only subsequent events have been allowed. The pleadings in the original plaint would still remain as also the prayers. Keeping all rights of the Defendants open to take out such Application before the learned Trial Court, the present bunch of Writ Petitions stand disposed while sustaining the order dated 22.12.2023 which is impugned in the Writ Petitions.

4. In view of this order, learned Trial Court shall permit the Plaintiffs to carry out the amendment within a period of two weeks from today on producing a server copy of this order before the Trial Court.

5. Contentions of all parties are expressly kept open .

6. At the request of Mr. Jahagirdar, it is clarified that right of the Defendants to file the Application under O. VII, R. 11 on the basis of the original unamended Plaint as filed by the Plaintiffs is also expressly kept open as available to the Defendants in law.

7. All three Writ Petitions are disposed.

[MILIND N. JADHAV, J.]