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

WRIT PETITION NO. 8183 OF 2024

Dashrath Shiva Korlekar

.. Petitioner

Versus

Devendra Marari Korlekar and Ors.

.. Respondents

-
- Mr. Sanskar Marathe, Advocate for Petitioner.
-

CORAM : MILIND N. JADHAV, J.

DATE : JUNE 10, 2024.

P.C.:

- 1.** Heard Mr. Sanskar Marathe, learned Advocate for Petitioner.
- 2.** The impugned order dated 22.02.2024 allows Application below Exhibit “77” in RCS No.7 of 2014 under Order VI Rule 17 of the Code of Civil Procedure, 1908 filed by the Plaintiffs at the stage when the final arguments have already been commenced and instead of arguing the Suit proceedings finally, Plaintiff filed Application seeking amendment seeking to add 12 immovable properties to the subject matter of the Suit proceedings in the Suit plaint and implead 19 parties having nexus with those 12 properties as Defendants in the Suit proceedings. That apart, substantive amendment has been sought in the prayer clause also. On the face of record it is seen that there is no due diligence whatsoever on the part of the Plaintiff.

3. All that the learned Trial Court holds is that allowing the said amendment would be necessary for determination of the real controversy between the parties considering the nature of the dispute and merely states that the amendment has been allowed to avoid multiplicity of Suit proceedings and litigation.

4. That apart, allowing such an amendment subject to payment of costs cannot be an answer as held by the learned Trial Court. *Prima facie*, it is clearly seen that the entire information which is sought to be now placed of record was available to the Plaintiff at the time of filing of the Suit proceedings itself.

5. However, findings returned by the learned Trial Court in paragraph No.5 are purely technical in nature. The reasons written in paragraph No.5 are inadequate, vague, insufficient in the facts and circumstances of the present case and cannot be countenanced by the Court merely because costs are to be paid by the Plaintiff to the contesting Defendants in proportion.

6. An arguable case has been made out by Mr. Marathe for issuance of notice and immediate stay of the impugned order dated 22.02.2024.

7. Hence, issue notice to the Respondent No.1. Humdast permitted.

8. In addition to Court notice, Petitioner is permitted to serve a copy of the Writ Petition and this order on the Respondents and inform them about the next date of hearing by any permissible mode of service and file appropriate Affidavit of service with tangible proof thereof on or before the next date.

9. Respondents are directed to remain present in Court on the next adjourned date either by themselves or through Advocate.

10. Respondents are directed to take cognizance of this order and file their Affidavit-in-Reply on or before the next date, if so desired.

11. In the meanwhile, the proceedings before the learned Trial Court shall stand stayed until the present Writ Petition is determined by this Court.

12. Stand over to 27th June, 2024 at 02:30 p.m.

[MILIND N. JADHAV, J.]

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