

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

WRIT PETITION NO. 12055 OF 2024

Vaibhav Shyamsunder Thakre And Anr

... Petitioners

Versus

Ramesh P. Mehta

... Respondent

Mr. Jaydeep Deo *for the Petitioners.*

Mr. Mehul Shah *for the Respondent.*

CORAM : SANDEEP V. MARNE, J.

DATE : 3 SEPTEMBER 2024.

P.C. :

1) This Petition is filed challenging Order dated 6 May 2024 passed by the learned Judge of the Small Causes Court allowing the Application at Exhibit 126 filed by the Defendant to amend the written statement.

2) I have heard Mr. Deo, the learned counsel appearing for Petitioners/Plaintiffs and Mr. Shah the learned counsel appearing for Respondent.

3) It appears that one of the grounds on which recovery of suit premises is sought is the *bonafide* requirement of Plaintiffs. It is Plaintiffs' case that the suit premises are required for storing the agricultural produce in respect of two agricultural lands owned by them. Defendant now wants to incorporate defence in the written statement that one out of the said two lands has already been alienated by the Plaintiffs. In respect of the second piece of land, Defendant wants to incorporate a pleading that no cultivation activity is being carried out on the same.

4) In my view, the amendments to the written statement are necessary for determining the real question of controversy between the parties. The application for amendments have rightly been allowed by the learned Judge.

5) Mr. Deo would raise an apprehension that amending the written statement at such a distant point of time has not only derail the track of the suit and affected its pace, but now the Court is likely to frame an additional issue on the basis of amendments in the written statement. Mr. Shah would clarify that Defendant has not filed any application for framing of any additional issues. It appears that the Court on its own is proposing to frame additional issues. In my view, since the issue of *bonafide* requirement of Plaintiffs is already framed as Issue No.1, amendment of the written statement does not warrant framing of any additional issue. Therefore, the apprehension sought to be expressed by Mr. Deo is taken care of. Instead of framing any

additional issues, Defendant would be at liberty to lead evidence in support of the pleadings incorporated by way of amendment.

6) Considering the overall conspectus of the case, I do not consider it necessary to interfere in the order passed by the learned Judge. With the clarifications observed above, the Writ Petition is disposed of.

7) Considering the fact that the suit is pending since the year 2010, I am sure the Trial Court would accord due priority for its expeditious disposal.

[SANDEEP V. MARNE, J.]