



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.4923 OF 2022

Uma Wd/o Hemchand Chafale and others .Vs. Chandramala W/o Laxmanrao
Borkute and others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri Prasad Dharaskar, Advocate for petitioners.
Shri K.J. Tople, Advocate for respondent No.1.

CORAM : ANIL S. KILOR, J.

DATED : 08/02/2024

1. The order below Exh.53 dated 21.09.2020 allowing the application for amendment to the plaint by the Civil Judge Junior Division, Arvi, Dist. Wardha in R.C.S. No.31 of 2016, is under challenge in this writ petition.

2. The suit filed by the plaintiff is for partition and separate possession and in the said suit, the plaintiff filed notice to produce document. Thereupon, the defendant Nos.1 to 3 produced the copy of the Will dated 09.01.2019.

3. Thus, it is the case of the plaintiff that, first time they could see the document i.e. Will deed dated 09.01.2019 and hence, the application for amendment was moved on 17.06.2019.

4. The plaintiff has stated all these facts in the application and thereby, pleaded due diligent on moving the application after the commencement of the trial.

5. In the above referred backdrop, the contention of the petitioner that, despite the fact that, there was a delay of one and half years and though it is recorded in the impugned order, the application was allowed, cannot be accepted.

6. The plaintiff has given sufficient reasons to move the application at a belated stage i.e. after the commencement of the trial. The reasons are found to be satisfactory. Moreover, since the learned trial Court has categorically held that, the proposed amendment is necessary for the decision of the real controversy between the parties in the suit, I do not find any error committed by the learned trial Court in allowing application.

Accordingly, the writ petition is **dismissed**.

JUDGE