



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

WRIT PETITION NO.1014 OF 2024

Vasant Jairam Badodekar .Vs. Mohd. Taher Abdul Rashid 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 S.S. Sohoni, Advocate for petitioner.

CORAM : ANIL S. KILOR, J.

DATED : 14/02/2024

1. The application for amendment to the plaint came to be rejected vide impugned order dated 12.07.2023 passed by 2nd Jt. Civil Judge Junior Division, Khamgaon in R.C.S. No.5 of 2000.

2. The plaintiff wants to add prayer clause which is as under :

“(aa) The sale deed dt. 18.06.2003 of Gokulchand Mamraj Sharma is null and void ab-initio and if for any reason the Hon’ble Court is of opinion that LR’s of Gokulchand Mamraj Sharma are in possession then possession may be given to plaintiff of suit land”.

3. Admittedly, the petitioner wants to raise a challenge to the sale deed dated 18.06.2003 by way of amendment which was sought by filing an application on 16.10.2023 i.e. after 10 years.

4. In light of the above referred facts, the learned trial Court has rejected the application by making following observation :

“i) Amendment seeking the relief regarding sale deed is barred by limitation.

ii) Application is not supported with verification and affidavit.

iii) Application failed to state the cause of action for challenging the sale deed.

iv) Trial is already commenced as plaintiff filed pursis to read earlier evidence on record.

v) There is no whisper about due diligence.

vi) There is no pleading regarding the prayer. Hence amendment for adding prayer is maintainable. Hence application is liable to be rejected.”

5. In the circumstances, I do not find any error committed by the learned trial Court in rejecting the application. Hence, there is no merit in the writ petition, the writ petition is **dismissed**.

JUDGE