



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

WRIT PETITION NO. 1080 OF 2024

Dadaji Donu Mandale and Ors.
Vs.
Rajesh Ramdas Mandale and Ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. Madhur Deo, Advocate for petitioners.
Mr. S.G. Karmarkar, Advocate for respondent Nos.1 to 4.

CORAM : N.R. BORKAR, J.

DATE : 26.11.2024.

This petition takes exception to the order dated 06.12.2023 passed by the learned Civil Judge Junior Division, Gadchiroli below Exhibit 171 in Regular Civil Suit No.19/2011.

2. Respondent Nos.1 to 4 herein are the legal heirs/representatives of original Plaintiff Ramdas, who died during pendency of Suit filed by him for Partition and separate possession.

3. By the order impugned, the learned trial Court has allowed the application filed by Respondent Nos.1 to 4 for amendment of the Plaint and permitted them to seek partition in relation to certain other properties.

4. The original Plaintiff Ramdas has died after five years of filing of the Suit on 22/04/2016. However, during his lifetime, no such amendment was sought by him. Admittedly, Respondent Nos.1 to 4 came on the record of the Suit in the year-2016 itself. However, the present application for amendment came to be moved in the year 2023. The trial Court has observed that the explanation given by Respondent Nos.1 to 4 is not acceptable, still allowed the application on the ground that no prejudice is going to be caused to the Petitioner.

5. Admittedly, the trial has commenced. The trial Court, therefore, erred in allowing the application for amendment after the commencement of the trial against the mandate of Order 6 Rule 17 of the Code of Civil Procedure. The order impugned is, therefore, set aside. The petition is allowed in the aforesaid terms.

(N.R. BORKAR, J.)