



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

WRIT PETITION NO.2293 OF 2024

Rajendra Namdeo Kavitkar and others .Vs. Bhagirathibai Harishchandra Kharate and another

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

Court's or Judge's Order

Shri A.D. Bhate, Advocate for petitioners.

CORAM : ANIL S. KILOR, J.

DATED : 12/04/2024

1. The order below Exh.138 rejecting the application for amendment under Order 6 Rule 17 of the Code of Civil Procedure (CPC), is under challenge in this writ petition.

2. On perusal of the record, it is evident that undisputedly, the matter was fixed for argument before the learned trial Court when the application for amendment was moved by the plaintiff.

3. Thus, the application for amendment was moved after commencement of the trial. However, after going through the application, no pleadings as regards due diligence are made in the application. Moreover, the learned trial Court has observed that by way of amendment, the plaintiff is claiming for relief to declare him as the owner of

the suit property by way of adverse possession. However, there are no pleadings made in the suit regarding hostile possession and adverse possession.

4. Thus, as plaintiff failed to pass the test of due diligence and on merit also, the application was rejected.

5. In the circumstances, in absence of any illegality or perversity in the impugned order, I am not inclined to interfere with the impugned order. Accordingly, the writ petition is **dismissed**.

JUDGE