



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

WRIT PETITION NO. 469 OF 2024

(Shri Vitthalrao s/o Namdeorao Lad (dead), Thr. LRs.

Vs.

Shri Tukaram s/o Namdeorao Lad & Ors.)

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. G.R. Sadar, Advocate for the Petitioners.

Mr. P.S. Thakur, Advocate for the Respondent Nos. 2, 2A, 3, 5, 9 & 11.

CORAM: N.R. BORKAR, J.

DATED : 15th JULY, 2024

Heard.

2. This Petition takes exception to the order dated 26.09.2023 passed by the learned Civil Judge Junior Division, Nandgaon Khandeshwar, District Amravati below Exh. 39 in R.C.S. No.47/2016.

3. The Petitioners are the legal representatives of the original plaintiff. The suit is for partition and separate possession.

4. By the order impugned, the learned Trial Court rejected the application filed by the present Petitioners for amendment of plaint.

5. The learned Counsel for the Petitioners submits

that, application for amendment was moved as plea was raised in the written statement about maintainability of suit for non-inclusion of certain properties. It is submitted that, in the facts and circumstances of the case, the learned Trial Court was not justified in rejecting the application only on the ground that it was moved after commencement of trial. It is submitted that, the trial of suit is at very initial stage as only issues are framed.

6. Considering the fact that suit is for partition the Trial Court ought not to have rejected the application. The order impugned is thus quashed and set aside. The learned Trial Court shall permit the Petitioners to amend the plaint in terms of Exh.39.

7. The Petition is **disposed** of in the above terms. No costs.

8. Considering the fact that the suit is for partition and separate possession, the learned Trial Court shall endeavour to decide the matter as expeditiously as possible.

9. Pending application/s, if any, shall stand disposed of accordingly.

(N.R. BORKAR, J.)