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25-WP-1680-2025

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

25 WRIT PETITION NO. 1680 OF 2025

Varsha Nitin Chordiya And Another
VERSUS
Chandrakala Rajmal Sancheti And Others

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Mr. S. B. Dadu h/f Mr. R. T. Wakale, Advocate for the Petitioners.

CORAM : KISHORE C. SANT, J.

DATE : 7th MARCH 2025

PC :-

1. Heard the learned Advocate for the petitioners.
2. By way of petition, the order dated 17th December 2024 passed by the learned Joint Civil Judge, Senior Division, Vaijapur Dist. Aurangabad is challenged.
3. By way of impugned order, the application for amendment filed by the plaintiff came to be rejected. The suit in Regular Civil Suit No. 371 of 2018 is filed for injunction against the respondents. By way of amendment, now the petitioners-plaintiffs sought an amendment inserting the averments showing apprehension that the defendants-

respondents are likely to dispose of the property and seeking injunction. The declaration is sought in respect of document executed on 20th August 2013 is not binding on the plaintiffs i.e. document of mortgage deed. Further averment is sought to be introduced that the document of mortgage deed is forged and therefore is not binding on the plaintiffs. The relief of partition and separate possession is sought to be added. Further relief is sought for declaration in respect of document dated 20th August 2013.

4. The application was vehemently opposed by the plaintiff. The learned trial Judge rejected the application holding that the application is filed after eight years of filing of the suit without giving any explanation for delay. The suit is at the stage of recording of cross examination of plaintiffs' witness.

5. The learned Advocate for the petitioner vehemently argued that the application for amendment needs to be considered liberally. No nature of the suit would be change by allowing the amendment application. Amendment is necessary to avoid the multiplicities of litigation. The learned Court below failed to appreciate the ratio laid

down in the case of *Risali (Dead) Thr. Lrs. Vs. Ramde*¹.

6. Considering the application and the averments those are sought to be introduced, this Court certainly finds that the reliefs which are now sought to be prayed could have been very much available while filing the suit. There is no case made out that the petitioners-plaintiffs had no knowledge of this events. It is also not else that this events are subsequent to filing of the suit. The trial Court has also rightly considered that the amendment application is filed at the stage when the suit is posted for cross examination of the plaintiffs' witness.

7. Considering all above, this Court does not find any perversity or illegality in the order passed by the learned trial Judge. Consequently, no case is made out calling for interference by this Court while exercising the power under Article 227 of the Constitution of India.

8. With this, petition stands dismissed. No order as to costs.

9. Needless to say that, Petitioner is at liberty to file independent proceeding for the reliefs as prayed for.

[KISHORE C. SANT, J.]

1 AIR 2005 SC 1851