



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

913 WRIT PETITION NO. 1925 OF 2022

BAI AMBADAS PAWAR THROUGH ITS G P A ATAMARAM AMBADAS PAWAR
VERSUS
ARJUN RAMA WAKALE AND ANOTHER

Mr. K. J. Ghute Patil, Advocate for the petitioner
Mr. U. R. Awate h/f Mr. A. T. Kanawade, Advocate for respondent No.1
Mr. D. B. Bhange, AGP for the respondent/State

CORAM : R. M. JOSHI, J.

DATE : 23rd APRIL, 2025

PER COURT :-

1. This petition takes exception to order passed below Exhibit 53 in R.C.S. No. 248/2011 dated 20/02/2020, whereby the Trial Court has rejected the application for amendment filed by the plaintiff under Order 6 Rule 17 of the Code of Civil Procedure (for short 'CPC').

2. Admittedly, plaintiff filed suit in the year 2011 for declaration and injunction in respect of the suit property. Defendants appeared and filed written statement. Issues were framed. The evidence of the parties also commenced. It is at this stage in the year 2018 an application is filed vide Exhibit 53 for amendment to the plaint for incorporating the pleadings and relief in respect of the partition of the suit property. This application is opposed by the defendants. Trial Court rejected the application.

3. Heard learned counsel for both sides.

4. First of all when an application is filed for the amendment after commencement of trial, proviso to Order 6 Rule 17 of CPC mandates the parties to show due diligence. In the application there is absolutely nothing mentioned in order to hold that in spite of due diligence plaintiff could not have sought amendment of the pleadings before the commencement of trial.

5. Apart from this perusal of the plaint indicates that suit is for declaration and injunction in respect of the suit property. It is after seven years of filing of this suit petitioner is seeking amendment of partition. The nature of the suit is certainly is going to be changed, if amendment is allowed. Trial Court has rightly taken into consideration these aspects to dismiss the application. For want of perversity no interference is caused. Hence, petition stands dismissed.

(R. M. JOSHI, J.)

ssp