



(1)

56wp4244.23

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

56 WRIT PETITION NO. 4244 OF 2023

AHEMADALI MEHATABALI ARAB AND OTHERS

....Petitioners

VERSUS

ASHKARALI MEHATABALI ARAB AND OTHERS

.....Respondents

Mr. Shoyab Shaikh, Advocate for the petitioners

Mr. P. S. Dikle, Advocate for the respondent Nos. 1 to 10 and 14

Mr. K. S. Patil, AGP for the respondents/State

CORAM : KISHORE C. SANT, J.

DATE : 05th MARCH, 2025

P. C.

1. Heard the learned advocate for the petitioners and respondent Nos. 1 to 10 & 14 who have filed caveat.

2. Though respondent Nos. 11 to 13 are served, none appeared for them.

3. The petitioners-original defendants have come to this court challenging the order dated 13-02-2023 passed by the

learned CJSD, Bhoom in RCS No. 9/2018 on an application Exh. 87.

4. The application Exh. 87 is filed by the present petitioners-original defendants seeking amendment in the written statement. Same came to be rejected and thus the petitioners are before this court.

5. The learned advocate for the petitioners vehemently argued that the amendment is only in respect of the facts which are not stated inadvertently in the written statement. The description of the property is also wrongly mentioned. By way of amendment they further want to take plea of the adverse possession on record. If the amendment application is not allowed, it would cause serious prejudice to the rights of the petitioners. It would also create complications. Therefore, he prays for quashing and setting aside the order by allowing the writ petition.

6. The learned advocate for the respondents vehemently opposed the petition. He submits that trial court has rightly passed the order. The application is rejected on three counts firstly; it is filed after framing of the issues and at the stage when the plaintiffs have given their affidavit, secondly; facts which were within knowledge of the plaintiffs since beginning and thirdly; that if the amendment is allowed that would change the nature of the suit and the defense of the petitioners. He submits that on these counts the learned court has rightly considered the application of the petitioners. No interference is called for and prays for dismissal of the writ petition.

7. This court has considered the application and order passed by the learned trial court. After hearing of the parties, this court finds that no case is made out by the petitioners calling for interference at the hands of this court. The learned trial court has considered all the aspects in correct perspective. No perversity or illegality is pointed out by the petitioners in the

(4)

56wp4244.23

order. In view of the same, this court is not inclined to interfere in the order passed by the learned trial court.

8. The writ petition, therefore stands dismissed. No order as to costs.

[KISHORE C. SANT, J.]

VishalK/56wp4244.23