



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

WRIT PETITION NO. 4896 OF 2023

**RENUKADAS BALKRISHNA DESHPANDE
VERSUS
MUNICIPAL CORPORATION THROUGH THE COMMISSIONER**

...
Advocate for the Petitioner : Mr. S.M. Gunjkar h/f Mr. Pravin N Kalani
Advocate for Respondent : Mr. Bora Satyajit S.
...

**CORAM : SHAILESH P. BRAHME, J.
DATE : 18th FEBRUARY 2025**

PER COURT :

. Heard both the sides finally at the admission stage.

2. This petition is directed against order dated 18.03.2023 below Exhibit-64 in R.C.S. No.152/2016 passed by the learned 2nd Joint Civil Judge, Senior Division, Parbhani, rejecting application of petitioner/plaintiff, seeking amendment to plaint.

3. Petitioner has filed R.C.S. No.152/2016 for perpetual injunction. An application at Exhibit-29 was filed for seeking amendment to plaint which was allowed vide order dated 14.03.2018. He was permitted to amend the claim clause as well as the pleadings. That time, he did not seek amendment to the prayer. The present application at Exhibit-64 is filed, seeking amendment to

the prayer clause which is rejected by the impugned order.

4. Learned Counsel for the petitioner submits that amendment is formal in nature and consequential. Inadvertently on earlier occasion, no amendment to the prayers of the plaint could be made. The nature of the suit is not going to change.

5. Learned Counsel Mr. Bora appearing for respondent supports the impugned order. He submits that the petitioner is not the diligent and protracting matter. The proposed amendment is not necessary to decide real controversy between the parties.

6. The petitioner was already permitted to amend claim as well as pleadings of the plaint. He could not amend the prayers. If the present application is allowed, the nature of the suit is not going to be changed. The amendment is necessary and no prejudice would be caused to the Respondent. It is formal in nature. I am of the considered view that the ends of the justice would be subserved in allowing the petition. I, therefore pass following order :

ORDER

- (i) Writ Petition is allowed partly.
- (ii) Order dated 18.03.2023 passed below Exhibit-64 passed by the 2nd Joint Civil Judge in R.C.S. No.152/2016 is quashed and set aside and the application at Exhibit-64 stands allowed.

(iii) The petitioner shall be at liberty to request the Court for recasting the issues.

(iv) RCS No. 152/2016 is expedited. The parties shall cooperate the trial Court in deciding the suit.

SHAILESH P. BRAHME
JUDGE

NAJEEB..