



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

928 WRIT PETITION NO. 7874 OF 2024

Balaji Digambarrao Revanwar & anotherPetitioners

VERSUS

Parbhani City Municipal Corporation ParbhaniRespondent
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Ms. S. M. Patil, Advocate holding for Mr. M. M. Patil (Beedkar),
Advocate for the Petitioners.

Mr. P. P. Jadhav, Advocate holding for Mr. S. S. Bora, Advocate for the
Respondent.

CORAM : R. M. JOSHI, J.

DATE : 28th FEBRUARY, 2025.

PER COURT :

1. This petition takes exception to the order of rejection of application filed under Order 6 Rule 17 of the Code of Civil Procedure by Plaintiffs seeking amendment to the plaint.

2. It is the contention of Plaintiffs that the suit is filed against Respondents for seeking injunction in respect of the suit property. It is further claimed that pleadings are raised with regard to the provisions of MRTP Act and since there was no specific challenge to the notice dated 08.10.2013, amendment is sought to the plaint.

3. Respondents did not file any say to the application before the Trial Court, however, the application was opposed by advancing arguments.

4. Trial Court rejected the application solely on the ground that due diligence is not shown by Plaintiffs to seek amendment to the plaint after commencement of the trial.

5. Learned counsel for the Petitioners/Plaintiffs submits that there are specific averments in the plaint indicating dispute with regard to the compliance/non-compliance of the provisions of MRTP Act. It is her contention that in such circumstances, when the notice dated 08.10.2013 was issued by the Respondents, no prejudice will be caused to the Respondents if amendment is allowed. It is her contention that in the said order there is no observation of the Trial Court that the amendment is not relevant for decision of the case.

6. Learned counsel for Respondents supported the impugned order by contending that unless due diligence is shown,

the application could not have been allowed by the Trial Court and the same is rightly rejected.

7. Impugned order indicates that issues were framed on 21.03.2024 and on the very next date of hearing i.e. on 30.04.2024, application for amendment came to be filed. Thus, though technically, application is filed after commencement of the trial, i.e. after framing of issues, it cannot be said that the same was filed belatedly with malafide intention. In any case, Trial Court does not record any finding about amendment sought by Plaintiffs being not relevant for decision of the case. In such circumstances, interest of justice requires the amendment to be allowed.

8. In view of above, petition is allowed. Application Exhibit 29 stands allowed. Amendment be carried out within a period of four weeks from today before the Trial Court. Trial Court to permit Defendants to file written statement.

(R. M. JOSHI)
Judge