



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

**17 WRIT PETITION NO. 9257 OF 2024
AND
18 WRIT PETITION NO. 9270 OF 2024**

RAOSAHEB GANGADHAR SHINDE DIED THR LRS YAMUNABAI DIED
THR LRS NANASAHEB RAOSAHEB SHINDE AND OTHERS
VERSUS
WAMAN LAXMAN JAGTAP

...
Advocate for Petitioners : Mr. D. G. Nagode
...

CORAM : ROHIT W. JOSHI, J.

DATE : 11-08-2025

PER COURT:-

WRIT PETITION NO. 9257 OF 2024:

1. Present petition takes exception to the orders dated 09.01.2023 and 10.07.2023 passed by the learned Civil Judge Senior Division, Newasa, District Ahmednagar, rejecting applications at Exhibit-207 and Exhibit-239 in Regular Civil Suit No.97 of 2004, filed by the petitioners/original defendants, under Order VII, Rule 11 of the Code of Civil Procedure (for short, "C.P.C.").

2. In the event if these applications were allowed by the learned trial Court, the suit will come to an end. In that view of the matter, the orders impugned are amenable to revisional jurisdiction of this Court under Section 115 of the C.P.C.

3. In view of the above, the writ petition is disposed of with liberty to the petitioners to file revision application under Section 115 of the C.P.C.

4. Learned counsel for the petitioners prays that time spent in prosecuting the present proceeding be ordered to be excluded while calculating the limitation in view of Section 14 of the Limitation Act. It will be open for the petitioners to make appropriate motion before the learned Court before whom civil revision application lies in this regard.

WRIT PETITION NO. 9270 OF 2024 :

5. Petitioners/original defendants in RCS No.97 of 2004 have filed present petition being aggrieved by orders dated 11.03.2024 and 24.06.2024 passed by the learned Civil Judge Senior Division, Newasa, District Ahmednagar, rejecting their applications at Exhibit-271 and Exhibit-274 for dismissal of suit.

6. It is contention of the petitioners that the plaintiff was permitted to bring legal representatives of deceased defendants No.1, 4, 1C and 1E, on record vide order passed below Exhibits-68, 129, 171, 217 in the said suit, however, while carrying out necessary amendment and filing amended plaint, the plaintiff has mischievously altered the pleadings in the plaint.

7. The learned trial Court has recorded that some amendment is made in the plaint although it is not allowed, this cannot be a ground for dismissal of suit since there is no provision in the C.P.C. for dismissal of suit on such ground. The learned trial Court has also observed that any corrections made in the plaint which are not permitted by the Court, will not be taken into consideration. This takes care of interest of the petitioners.

8. The learned trial Court is directed to ensure that correct copy of plaint is placed on record by the plaintiff and proceed to decide the matter, accordingly.

9. Writ petition is disposed of in aforesaid terms.

[ROHIT W. JOSHI]
JUDGE

rrd