



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9827 OF 2025

LOCHANBAI BABU SABLE

....Petitioner

VERSUS

KAMALBAI PRALHADRAO SHINGARE AND OTHERS

.....Respondent

.....
Advocate for the Petitioner : Mr. MAHESH P. KALE

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 12th AUGUST, 2025.

P.C. :-

1. The petitioner impugns the order dated 9.5.2025 passed by the Civil Judge (Junior Division), Parbhani below Exh. 164 in R.C.S. No. 29 of 2012, by which the application filed by respondent/plaintiff seeking amendment in plaint is allowed.

2. Respondent/plaintiff instituted suit seeking partition and separate possession of the suit property, so also, for declaration that sale deeds of 1995 and 1997 executed by defendant No.1 in favour of defendant No.2 are not binding on her. The evidence of plaintiff and her witnesses is already recorded. At this stage, she filed an application below Exh.164 under Order 6 Rule 17 of C.P.C. seeking permission to amend the plaint. The trial court allowed the application, permitting amendment on payment of cost of Rs. 600/-.

3. Mr. Kale, learned advocate for the petitioner contends that plaintiff is repeatedly filing applications for amendment and trying to protract the proceeding of the suit. He would submit that once trial has commenced, in the light of proviso to Order 17 of Rule 6, in absence of explanation for not seeking similar amendment prior to commencement

of trial, the application for amendment could not have been allowed. Mr. Kale further submits that the amendment sought is in respect of facts which were very well within the knowledge of plaintiff even at the time of institution of the suit. There is no explanation why such pleadings were not incorporated at the time of filing of the suit or why the amendment was not sought prior to commencement of trial. According to him, allowing such amendment would cause prejudice to the defendant, who has already opened his defence.

4. Having considered the submissions advanced, it can be observed that plaintiff has specifically pleaded in the plaint that she is exclusive owner of the suit property. In para.13 of the plaint, plaintiff wants to add the portion to explain, as to how she acquired exclusive ownership over the suit property. The learned trial court has rightly observed that proposed amendment is consistent with the pleadings in the suit. Same would not amount to withdrawal of admission or insertion of a new case. Although plaintiff has examined witnesses in the trial, defendant has not yet cross examined those witnesses. In these circumstances, defendant would have an opportunity to put up their version in respect of amended portion. Apparently, amendment is in the nature of clarification of the pleadings which are already on record. In these circumstances, the trial court was justified in allowing the application, permitting plaintiff to cause amendment in the plaint. This court does not find jurisdictional error in exercise of discretion under Order 6 Rule 17 of C.P.C. Hence, there is no merit in the writ petition. In the result, writ petition is dismissed, however, the trial court is expected to decide the suit expeditiously, without granting unnecessary amendment or entertaining any further application for amendment. Writ petition stands disposed of.

[S.G. CHAPALGAONKAR, J]

grt/-