



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

WRIT PETITION NO. 10814 OF 2019

PURUSHOTTAM RAMRAO DESHMUKH

VERSUS

CHINMAYEE PURUSHOTTAM DESHMUKH AND OTHERS

...

Mr. Vijay B. Patil, Advocate for the Petitioner.

Mr. Eknath G. Irale, Advocate for Respondent Nos.1 and 2.

...

CORAM : S. G. CHAPALGAONKAR, J.

DATED : 12th JUNE, 2025.

P.C.:-

1. The present Writ Petition takes exception to order dated 15.07.2019 passed by learned Civil Judge Junior Division, Pachora in Regular Civil Suit No.94/2011, by which application of petitioner seeking amendment in his written statement has been rejected.
2. The respondent nos.1 and 2, who are wife and daughter of petitioner instituted suit for partition and separate possession on ancestral properties alongwith allied prayers before Civil Judge Junior Division at Pachora.
3. The petitioner filed his written statement refuting claim set out in plaint.
4. The plaintiffs then filed evidence affidavit alongwith documents relied, which includes bonafide certificate and birth certificate of one Tanmayee Purushottam Deshmukh. On the basis of these two documents, petitioner filed application below Exhibit

E-130 under Order VI Rule 17 of the Code of Civil Procedure seeking amendment in written statement on the ground that Tanmayee is his daughter and in case of partition suit, her presence would be required for adjudication of rights of parties. As such, ground of non-joinder of necessary party is sought to be inserted by amendment. The learned Trial Judge after considering rival submissions observed that amendment as prayed is not required for adjudication of controversy between parties, hence, such amendment need not be permitted.

5. Mr. Patil, learned Advocate appearing for petitioner vehemently contends that when plaintiff herself relied on documents like birth certificate and bonafide certificate of Tanmayee Purushottam Deshmukh, it is apposite that she admits status of Tanmayee to be daughter of defendant nos.1 and 2. In that case, Tanmayee would also be entitled for share in joint family property. He would, therefore, urge that amendment as prayed was necessary for effective adjudication of dispute.

6. Per contra, Mr. Irale, learned Advocate appearing for respondents supports impugned order.

7. Having considered submissions advanced, it can be observed that plaintiff in her pleading or affidavit nowhere stipulates that Tanmayee is daughter of defendant nos.1 and 2. Only she has put

into service two documents i.e. birth certificate and bonafide certificate of Tanmayee. That itself cannot give reason for defendants to seek amendment in written statement. Even assuming that Tanmayee is daughter of defendant no.1 from defendant no.2 with whom he contracted marriage during subsistence of his marriage with plaintiff no.2, Tanmayee would not be entitled to claim partition in ancestral property. The present suit would decide share of plaintiffs and defendant nos.1 and defendant no.3. In that view of the matter, there is no fault in view taken by Trial Court.

8. In result, Writ Petition sans merit. Hence, dismissed.

9. Since Mr. E. G. Irale, learned Advocate is appointed through legal aid to represent respondents, the Secretary, High Court Legal Services Sub-Committee, Aurangabad Bench do pay the fees of the appointed counsel for respondents as per schedule.

(S. G. CHAPALGAONKAR)
JUDGE