



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9870 OF 2024

1. M/s. Ever Green Micro – Nutriyants,
Head Office at Ghole Raod,
Shiwajinagar, Pune.
2. Chandan s/o Maniklalji Shah,
Age : 45 years, Occ. : Business,
Director, M/s Ever Green
Micro – Nutriyants Pvt. Ltd.,
Pune, R/o Flat No. 102,
Tejovalay, Deshmukh Path,
Ghole Road, Shiwajinagar,
Tq. and Dist. Pune
3. Sharmila w/o Maniklalji Shah,
Age : 50 years, Occ. : Business,
Director, M/s Ever Green
Micro – Nutriyants Pvt. Ltd.,
Pune, R/o as above.

...PETITIONERS

...VERSUS...

Chhatrapati s/o Ramchandra Wankhede,
Age : 57 years, Occ. : Business,
R/o Plot No. 22, Gat No.24,
Niwrutii Nagar, Jalgaon,
Tq. and District Jalgaon.

...RESPONDENT

-
- Sr. Adv. Rajendra Deshmukh a/w. Adv. Ashwini Deshmukh i/b. Mr. D. R. Deshmukh, Advocate for the Petitioners
 - Mr. M. G. Patil, Advocate for Respondent
-

CORAM : ROHIT W. JOSHI, J.
DATE : JULY 16, 2025

ORAL JUDGMENT :

1. The present petition impugns the order dated 10.07.2024

passed by the learned 3rd Joint Civil Judge Senior Division, Jalgaon on
komal kamble *page 1 of 4*

application at Exhibit 84 in Special Civil Suit No. 63 of 2017, whereby the learned Trial Court has permitted the respondent/original plaintiff to correct the name of defendant no. 1 in the said suit i.e. petitioner no. 1 in the present writ petition. The respondent had filed Special Civil Suit No. 63 of 2017 for recovery of money, initially against one defendant, who was named in the plaint as M/s. Evergreen Micro Nutrients. The plaintiff filed an application for amendment of plaint on 18.06.2019 vide 'Exhibit 23'. By the said application, the plaintiff prayed that the name of defendant No. 1 be corrected as M/s. Evergreen Micronutrients Pvt. Ltd., instead of M/s. Evergreen Micro Nutrients and also prayed for permission to include names of defendant nos. 2 & 3 in the suit. The said application came to be allowed by the learned Trial Court vide order dated 05.10.2019. However, while carrying out the amendment, once again the plaintiff did not mention the correct name as, 'Micro Nutrients', the name as was originally mentioned was again typed showing the name of 'Micro Nutrients'. On being aware about said inadvertent typographical error, the plaintiff moved another application on 11.06.2024, vide Exhibit 84 seeking permission to carry out the said correction. The learned Trial Court as stated above has allowed the said application vide order dated 10.07.2024. This order is impugned in the present petition.

2. The contention of the learned senior advocate appearing for the petitioners is that in the application at 'Exhibit 23', which was

allowed by the Trial Court, the amendment sought was not to correct the name of defendant no. 1 as Micro Nutrients and therefore, it was not open for the respondent/plaintiff to contend that there was any typographical error in mentioning the correct name of defendant no. 1. It is also contended that a proprietorship concern by the name of M/s. Evergreen Micro Nutrients was never in existence. Perusal of the application at 'Exhibit 23' will demonstrate that the plaintiff wanted to correct the name of defendant no. 1 as M/s. Evergreen Micronutrients. The contention that such amendment was not sought by the plaintiff is therefore, contrary to the record. The first contention of the learned senior counsel is therefore, not acceptable.

3. As regards second contention that such proprietorship concern was never in existence, it is well settled that correctness or otherwise of an amendment is a subject matter of trial. At this stage, the said issue cannot be looked into. The Trial Court has merely permitted the plaintiff to correct the typographical error in describing the name of defendant no. 1, which in the considered opinion of this court is perfectly legal and justified and does not call for any interference.

4. Another aspect, which is brought to the notice of this Court is that the petitioners had filed an application vide 'Exhibit 87' on 07.08.2024, seeking time to file appropriate application for amendment,

which came to be rejected by the learned Trial Court. The learned Trial Court has rejected the application recording that the reason mentioned for adjournment was not proper and therefore, the said application was liable to be rejected. In the considered opinion of this Court, the said order dated 07.08.2024 warrants interference. Since the plaintiff is permitted to correct the name of defendant no. 1 vide order dated 10.7.2024 in a suit filed in the year 2017, the learned Trial Court should have been little more considerate in granting accommodation to the petitioners/defendants in filing appropriate application. The learned Trial Court ought to have allowed the petitioners to move an appropriate application, as they may deem fit. In the event, such an application is filed, the same may be considered and decided on its own merits, in accordance with law. The rejection of application at 'Exhibit 87' will not come in the way of the petitioners in filing such application. Writ petition is **disposed of** accordingly.

[ROHIT W. JOSHI, J.]