

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.93 OF 2025

[Tejram Suryabhan Avatare ..vs.. Nilini Ashokrao Suranse and Anr.]

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Mr S. N. Singh, Advocate for Petitioner.

CORAM : ANIL L. PANSARE, J.

DATE : 7th JANUARY, 2025.

1. Heard.

2. The challenge is to the order dated 10.12.2024 passed below Exhibit – 66 by the Trial Court in Special Civil Suit No.14 of 2017, thereby refusing permission to petitioner/plaintiff to carryout the amendment to the plaint. The Trial Court held that the petitioner/plaintiff has not stated in the application as to why has he not pleaded the aforesaid fact before commencement of trial. The Trial Court has relied upon the judgment passed by this Court in the case of **Sau. Anita Anant Kaidalwar vs. Suhas Manoharrao Umathe and Ors.**, wherein this Court held that the jurisdiction of the Court to allow such amendment is permissible only if the party satisfies the Court in spite of due diligence the party was prevented from filing application for amendment, before commencement of trial.

3. As stated earlier, the Trial Court has noted that the petitioner/plaintiff has not pleaded and satisfied the Trial Court that in spite of due diligence, the proposed amendment could not be sought. The petitioner/plaintiff intends to amend

the contents of First Information Report, wherein the sell consideration is mentioned as Rs.1,50,000/- as against Rs.1,60,000/-. As such, in the sale deed executed between the parties, the sell consideration is mentioned as Rs.1,60,000/-.

4. If that be so, merely because some different amount is mentioned in First Information Report by itself will not change the consideration amount as mentioned in the sale deed.

5. Be that as it may, the Trial Court has rejected the application on the ground that the petitioner/plaintiff failed to explain that despite due diligence, proposed amendment could not have been sought. The finding appears to be in consonance with the provisions of law. No interference, therefore, is called for in supervisory jurisdiction under Article 227 of the Constitution of India. The petition is accordingly **dismissed**.

JUDGE

TAMBE