



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

Writ Petition No. 740 of 2025

[Mr. Hasan S/o Abdullah Dawawala ..vs.. Mrs. Shobha Shrichand Kungwani]

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

Court's or Judge's orders

Mr. R. M. Sharma, Advocate for the petitioner
Mr. Arjun Raoka, Advocate for the respondent

CORAM : ANIL L. PANSARE J.

DATED : 17-03-2025

Heard.

2. On 11-2-2025, following order was passed.

“Heard.

2. *Proceeding before Small Causes Court, Nagpur is pending adjudication for fixation of standard rent. The parties argued the matter and the matter was reserved for judgment. Petitioner – landlord filed an application seeking amendment, on the ground that there occurred subsequent event, which is relevant to decide the issue. According to the petitioner, the subsequent event is agreement of leave and license executed by the adjoining property owner letting the property at Rs.15,000/- per month with periodical increase. This fact, according to the petitioner, would benefit him and, therefore, sought amendment. The Trial Court rejected the same on the ground that the subsequent event has occurred in respect of some other property and not the suit property and further the petitioner is requesting to add a document in the form of pleading. Accordingly, refused the application.*

3. *Contention is that the finding so rendered is not in consonance with the provisions of the law.*

4. *Issue notice before admission to the respondent, returnable in two weeks.*

5. *In the meantime, there shall ad interim relief in terms of prayer clause 3, which reads as under:*

“3. Stay the proceeding in Miscellaneous Judicial Case No.103/2015 pending before the court of Second

Additional Judge, Small Causes Court, Nagpur, during the pendency of the present petition;”

3. As could be seen, the trial Court has rejected the application seeking amendment only on the count that subsequent event relates to the property which is not subject matter of the suit.

4. This finding appears to be apparently incorrect in as much as the issue before the Court below is to fix quantum of standard rent of the suit property. It is well settled that while adjudicating the standard rent, the rent fetched by adjoining property would be relevant. In the present case, the petitioner – landlord intended to amend the application to show to the Court that adjoining property is fetching rent at Rs. 15,000/- per month. This fact will be relevant to decide the quantum of standard rent of the property under question. The trial Court, however, took a view that the development is in respect of other property and not the suit property. Thus, the application is rejected by assigning incorrect reason.

5. At this stage, learned counsel for the respondent has invited my attention to roznama. It indicates that from 1-10-2024 till 3-1-2025, the application was fixed for argument and on 8-1-2025, the matter was fixed for judgment. The application under question has been filed on 13-1-2025. He submits that the subsequent development, has allegedly occurred on 14-10-2024 and, therefore, the application, if any ought to have been filed before concluding argument.

6. As against, learned counsel for the petitioner submits that the petitioner filed written notes of argument on 1-10-2024 and thus, the development occurred subsequent to his argument. He further submits that it is the respondent, who took time to argue the matter and ultimately, the

matter was closed for judgment on 8-1-2025. The judgment, however, was not passed and in the meantime, the petitioner filed the aforesaid application seeking amendment. Thus, what transpired is that though the petitioner will carry a blame of approaching Court, a little late, however, the fact remains that the amendment sought by the petitioner was relevant to decide the controversy. In any case, the trial Court could not have rejected the application on the count that the subsequent development, that has occurred, pertains to adjoining property. The order impugned, therefore, would not stand scrutiny of law. The petition is accordingly allowed. Order dated 27-1-2025 passed by the Second Additional Judge, Small Causes Court, Nagpur below Exhibit 32 is quashed and set aside. The application, Exhibit 32 is allowed.

7. The petitioner shall amend the application within two weeks from today. Consequential amendment, if any, shall be made by the respondent within two weeks thereafter. The application shall thereafter proceed in accordance with law. The trial Court to consider the same appropriately.

8. Writ petition is disposed of in above terms with no order as to costs.

(Anil L. Pansare, J.)