



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.1899/2025

Rajhans Rajaram Chakole & anr. Vs. Rajaram @ Rajaram Tukaram Chakole & Ors.

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

Court's or Judge's orders

Mr. N. Jibhkate, Advocate for petitioners.

CORAM : ANIL L. PANSARE, J.

DATE : APRIL 7, 2025

Heard.

2. Challenge is to order dated 27.02.2025 passed by the Trial Court allowing application filed by respondent to amend the plaint.

The reason assigned for allowing the application reads thus:

“4. Heard learned advocate for plaintiffs and defendants at length. The application is supported by affidavit of plaintiffs. On going through the application for amendment, it is seen that amendment sought is in respect of certain events occurred during pendency of suit and reliefs in respect of measurement ought to have been carried out by measurer. Hon'ble High Court in order dated 11.11.2024 in Writ Petition No. 4133/2023 granted permission to withdraw the petition with liberty to seek amendment in plaint and file fresh application under Order 39, Rule 1 & 2 of Code of Civil Procedure if so permissible. Issues have been framed below Exh. 45 but evidence of parties yet not been started therefore, trial yet to commence. The proposed amendment is necessary to avoid the multiplicity of the proceeding and for the purpose of determining real question in controversy between the parties. Moreover, defendants also have opportunity to file additional written statement. Therefore, no prejudice will be caused to defendants. Therefore, application needs to be allowed in the interest of justice. Therefore, with respect ratio laid down by Hon'ble Apex Court in Basavaraj Vs. Indira (Civil Appeal No. 2886/2012 decided on 29.02.2024) is not helpful to defendants as facts differ.”

3. As could be seen, the Trial Court has permitted amendment, noting therein that the issues have been framed and

evidence has not yet commenced and in that sense the trial has not commenced. The court further found that by permitting amendment, multiplicity in proceedings could be avoided.

4. Counsel for the petitioners submits that by way of amendment, the plaintiffs are trying to change the nature of the dispute. In the original map, to the Western side, description of the land was not shown and now, by way of amendment, the respondents intend to add land bearing NIT Khasra No.36. Thus according to the counsel for the petitioners, the Trial Court has permitted material changes.

5. I do not find substance in the aforesaid submission. The respondents have filed suit for declaration, injunction and demarcation of land. The respondents are seeking partition of the property which, according to the petitioners is already partitioned by way of deed of settlement. It appears that these properties, along with area of land, were allotted to the petitioners and respondents. By way of amendment the respondents intend to get the decree of demarcation so that the properties allotted will further be crystallized by way of demarcation. In doing so, the respondents have described the land adjacent to the land belonging to the petitioners as land of the Nagpur Improvement Trust. This aspect, to my mind, will not cause any prejudice to the petitioners inasmuch as the petitioners will get their share of land as has been settled by the parties. In any case, the petitioners will have an opportunity to defend the case by filing additional written statement, if so desired. In the circumstance, I do not find any reason to interfere with the impugned order. The writ petition is accordingly dismissed. No order as to costs.

(Anil L. Pansare, J.)