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

WRIT PETITION NO.3246/2019

Santosh Shivaji alais Ramaji Wagh .Vs. Satyanarayan Sarinarayan Bhut (dead) thr.
LRs and Ors.

AND

WRIT PETITION NO.3244/2019

Ramesh Shivaji Wagh .Vs. Satyanarayan Sarinarayan Bhut (dead) thr. LRs & Ors.

AND

WRIT PETITION NO.3240/2019

Smt.Mangala Namdeo Pawar.Vs.Satyanarayan Sarinarayan Bhut (dead) thr.LRs & Ors.

AND

WRIT PETITION NO.3231/2019

Ganesh Annadrao Gite .Vs.Satyanarayan s/o Sarinarayan Bhut (dead) thr. LRs & Ors.

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

Court's or Judge's orders

Mr. K. P Sadavarte, Advocate for petitioners.

Mr. T. Darda, Advocate for respondents.

CORAM : ANIL L. PANSARE, J.

DATE : JANUARY 23, 2025

Heard.

2. The issue involved in all these petitions is common and, therefore, can be decided by common reasons.

3. In a suit filed by the respondents for recovery of possession, applications to amend the plaints were filed, pending trial. The respondents intended to add four boundaries to describe the suit properties for proper identification. The Trial Court allowed the applications, *inter alia*, on the ground that the amendments will help to determine the real controversy between the parties. Thus, according to the Trial Court, the amendments would go to the root of the case.

4. Counsel for the petitioners submits that the respondents have not uttered a word as to why could not these amendments be brought on record before commencement of the trial and, therefore,

the Trial Court ought not to have allowed the applications, particularly because they are hit by the proviso to Rule 17 of Order VI of the Civil Procedure Code, 1908.

5. True it is that the Courts will be slow in entertaining the applications, post trial. Equally correct it will be for the Trial Court to consider the plea of amendment, if it goes to the root of the case in terms of the law laid down by the Supreme Court in the case of *Dinesh Goyal alias Pappu Vs. Suman Agarwal (Bindal) [2024 SCC OnLine 2615]*.

6. In that view of the matter, I do not find any perversity in the impugned orders to entertain the petitions in the supervisory jurisdiction under Article 227 of the Constitution of India.

7. At this stage, counsel for the petitioners submits that evidence of the parties is almost over and the petitioners had no opportunity to cross-examine the plaintiffs' witness or the person who has drawn measurement map and, therefore, it will affect the petitioners' rights.

8. In my view, once the complaints are amended, the petitioners will get an opportunity to amend the written statement and, if required, the Trial Court will be bound to give necessary opportunity as is required either to examine afresh or re-examine the witness to the extent necessary, depending on the nature of controversy that emerges post amendment. The petitioners, therefore, may make appropriate request once the consequential amendment is made.

9. With the above observations, the writ petitions are dismissed. No order as to costs.

(Anil L. Pansare, J.)