

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

WRIT PETITION NO.6309 OF 2024

(Education Officer (Primary), Zilla Parishad, Washim Vs. Ratna d/o Pandhari
Jawanjal)

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

Court's or Judge's orders.

Mr. Amol Deshpande, Advocate for Petitioner.
Mr. V. K. Paliwal, Advocate for Respondent.

CORAM: R. M. JOSHI, J.

DATE: 30th JUNE, 2025.

1. By consent of both the sides heard finally at the stage of admission.
2. This petition takes exception to the order passed by the Execution Court below Exh.113 in Special Darkhast No.55/2003 allowing the amendment.
3. Learned Counsel for the petitioner judgment debtor has sought to draw attention of this Court to the various facts which according to him indicates that the decree has been fully satisfied and that nothing is due and payable to the respondent. He further drew attention of the Court to the agreement executed between the parties indicating so. Thus, it is his contention that on the face of it the amendment is not *bona fide* and it ought to have been rejected by learned trial Court.

4. Counsel for the respondent supported the impugned order with contention that this Court in Writ petition No.3899/2023 dated 26.06.2023 has granted liberty to the respondent to file an application for amendment.

5. Even if this Court has granted leave to file application for amendment, the same cannot be construed as the legality of the amendment sought. It is for the Execution Court to consider the correctness or otherwise the amendment at the appropriate stage of the execution proceeding. The *bona fides* or the merits of the amendment cannot be gone into at this stage though it is open for the petitioner to canvass the same before the Execution Court.

6. The grievance of the petitioner can be taken care by calling upon the Execution Court to deal with the issue of *bona fides* of amendment and merit of the amendment at appropriate stage and if the Execution Court finds that the amendment is *mala fide*, the same shall be deal with sternly.

7. In view of above, the petition is dismissed.

(R. M. JOSHI, J.)