



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

WRIT PETITION NO.8197 OF 2023

PETITIONER

Plaintiff

:- Anand Mohanbabu Jaiswal,
Aged about 38 years, Occupation: Pvt.
Service, R/o Bbarat Nagar, Chandur
Railway, Tq. Chandur Railway, Dist:
Amravati.

..VERSUS..

RESPONDENTS

- :-** 1) Aruna Mohanbabu Jaiswal,
Aged about 55 years, Occupation:
Household, R/o Bharat Nagar, Chandur
Railway, Tq. Chandur Railway, Dist:
Amravati.
- 2) Alka Udaykumar Jaiswal, Aged about 26
years, Occupation: Household, R/o C/o
Shivaknath Jaiswal, Dharamshala Ward,
Ghatanji, Tq. Ghatanji, Dist: Yavatmal.
- 3) Ashish Mohanbabu Jaiswal, Aged about 24
years, Occupation: Student, R/o Bharat
Nagar, Chandur Railway, Tq. Chandur
Railway, Dist: Amravati.

Ms. Ritu P. Jog, Advocate for Petitioner.

Mr. P.R. Agrawal, Advocate for Respondent Nos.1 and 2.

CORAM : **ROHIT W. JOSHI, J.**

DATE : **28/11/2025**

ORAL JUDGMENT

1. Heard finally with consent of parties.
2. The present petition is filed by the plaintiff in Special Civil Suit No.01 of 2015 in order to assail order dated 29.09.2023, passed by the learned 4th Joint Civil Judge Senior Division, Amravati, on application for amendment of written statement (Exh.187) filed by the defendant Nos.2 and 3 in the said suit. The petitioner is the son of respondent No.1 and the brother of respondent Nos.2 and 3. The petitioner has filed Special Civil Suit No.01 of 2015 against the present respondents for declaration, injunction, partition and separate possession. The father of the petitioner was arrayed as defendant No.1. He has expired since then. Since all the legal representatives are on record, his name are deleted from the array of the parties in the suit.
3. The dispute in the present petition pertains to the application for amendment filed by the respondent Nos.1 and 2/defendant Nos.2 and 3 in the Civil Suit vide Exh.187. The said amendment application relates to CL-III license, which was initially held by the deceased defendant No.1 along with his wife/respondent No.1. The respondent Nos.1 and 2 sought to amend the written statement in order to raise certain contentions with respect to the partnership deed dated 12.12.2014. It must be

stated that at some places in the amendment application, the date of the partnership deed is mentioned as 12.10.2014, however, it is not in dispute that the date of the partnership deed is 12.12.2014. By the said application, the respondent Nos.1 and 2 sought to raise a contention that Clause-14 of the partnership deed dated 12.12.2014 was fabricated by inserting certain words in hand by deleting the original content which was typed. The learned trial Court has allowed the application for amendment vide impugned order dated 29.10.2023.

4. The contention of the learned Advocate for the petitioner/original plaintiff is that the contents of the partnership deed are not in dispute and have been expressly admitted by the respondent Nos.1 and 2 (defendant Nos.2 and 3) who have filed the amendment application. The learned Advocate has drawn attention to the Writ Petition No.2723 of 2022 filed by the said respondents (defendants), wherein reference is made to the said partnership deed dated 12.12.2014 and the copy thereof is filed as Annexure-II with the writ petition. The learned Advocate has drawn attention to the copy of the partnership deed filed along with the petition, which is the same as the partnership deed filed on record in the civil suit. The learned Advocate therefore contends that the amendment

seeking to incorporate pleadings regarding the alleged fabrication of the partnership deed ought not to have been allowed.

5. The learned Advocate further contends that the first paragraph of the proposed amendment is also not in the nature of pleading but in the nature of arguments.

6. *Per contra*, Mr. P.R. Agrawal, learned Advocate for the respondent Nos.1 and 2/original defendant Nos.2 and 3, who have filed the application for amendment, contends that the amendment application was filed before the commencement of the trial of the suit and that the law with respect to amendment of a written statement is well settled, that a defendant can take alternate and inconsistent pleas in the written statement. He further contends that the veracity or correctness of the pleadings sought to be incorporated by amendment cannot be seen at this stage, and therefore, the learned trial Court has rightly allowed the application for amendment.

7. Heard the respective submissions as aforesaid.

8. I have perused the copy of partnership deed which is filed on record along with Writ Petition No.2723 of 2022 as Annexure-II. Perusal of Clause-14 of the said document will indicate that the words allegedly inserted by way of fabrication appear in the

partnership deed filed on record by the respondent Nos.1 and 2, who are the petitioners in Writ Petition No. 2723 of 2022, along with the said writ petition as Annexure-II. Perusal of the paragraph-5 of the petition will demonstrate that reliance is placed on the said partnership deed by the petitioners i.e. defendant Nos.2 and 3. It is not pleaded in the petition that paragraph-14 of the partnership deed is tampered.

9. In that view of the matter, in the considered opinion of this Court, third unnumbered clause in proposed paragraph-15A(i) of the written statement deserves to be disallowed. The said portion of amendment which is disallowed starts with the words, “It is submitted that the original partnership deed which has been...” followed by the clauses, (a), (b), (c) and (d), ends with the words, “committing forgery”. Likewise, I am in agreement with the contention of the learned Advocate of the petitioner that the first unnumbered clause in the application for amendment starting with the words, “It is submitted that on the last date i.e. 8.9.2022...” and ending with the words, “Hence, the same was not perused minutely.”, cannot be a part of pleadings but a matter of record and the facts to be argued during the course of final hearing of the suit. The said portion of the amendment also deserves to be disallowed.

10. However, as regards second unnumbered clause in paragraph-15A(i), starting with the words “That the Superintendent of Excise...” and ending with the words “which is on the stamp paper of 19.05.2014.”, deserves to be allowed to be incorporated since the pleading is pertaining to certified copy obtained from the record of Superintendent of Excise. Likewise, Clause-15A(ii) of the proposed amendment can also be allowed. In view of the above, the writ petition is partly allowed on the following terms : -

- i) Writ petition is partly **allowed**.
- ii) Order dated 29.09.2023, passed by the learned 4th Joint Civil Judge Senior Division, Amravati, on application at Exh.187 in Special Civil Suit No.01 of 2015, is modified as under :-
- iii) Unnumbered Clauses-1 and 3 in Paragraph-15A(i) of the proposed amendment in Exh.187 in Special Civil Suit No.01 of 2015, pending on the file of learned learned 4th Joint Civil Judge Senior Division, Amravati, are disallowed. Respondent Nos.1 and 2/original defendant Nos.2 and 3 allowed to amend the written statement by

incorporating unnumbered Sub-Clause(2) in clause (i) and Clause (ii) of paragraph15A, as per Exh.187 in Special Civil Suit No.01 of 2015.

iv) Parties to bear their own costs.

(ROHIT W. JOSHI, J.)

C.L. Dhakate