



48.wp.187.2024.odt

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

WRIT PETITION NO. 187 OF 2024

Nita Vijay Surjuse (since deceased through L.Rs.)
and Others.

... PETITIONERS

Versus

Rahufkhan Chotukhan Pathan & Others

... RESPONDENTS

Mr. A. A. Zade, Advocate for Petitioners.

Mr. A. S. Dhore, Advocate for Respondent No.1.

Ms. Prachi Joshi, AGP for Respondent Nos.2 to 5.

CORAM : R. M. JOSHI, J.
DATE : JUNE 18, 2025.

ORDER

. This Petition takes exception to the orders passed below Exhibit-33 by the trial court in Regular Civil Suit No. 12/2019, rejecting the application for amendment filed by the Plaintiffs/Petitioners under Order 6 Rule 17 of the Code of Civil Procedure and order passed below Exhibit-32, rejecting the application for adding subsequent purchaser of the suit property as party Defendant.

2. Heard learned Counsel for both sides.

3. During the course of hearing it is sought to be argued on behalf of the learned Counsel for Petitioners that the suit has been filed with specific contention that the first sale deed of year 1965 is illegal. It is his contention that the Petitioners/Original Plaintiffs want to record the ground that no sale could have been effected without prior permission of the competent authority. It is his contention that this amendment, if allowed, would be only explanatory in nature and would not change the nature of suit. Though such submissions are made now, the application runs into several pages taking up various contentions than the one now sought to be insisted upon. In such circumstances, this Court finds it appropriate to set aside the order passed by the trial court below Exhibit-33 granting leave to the Plaintiffs/Petitioners to move fresh application. It would be open for the Defendant to contest the said application. Trial court is expected to pass order on the said application at the earliest and in accordance with law.

4. As far as order below Exhibit-32 is concerned, admittedly the Plaintiffs are seeking addition of the party who has purchased the subject property vide sale deed dated 20/8/2020. This sale deed has been executed during the pendency of the suit. Needless to say that any decree passed in this

suit would bind the subsequent purchaser, as such he is not necessary party.
Hence, rejection of application (Exhibit-32) is confirmed.

5. Writ Petition stands disposed of in above terms.

(R. M. JOSHI, J.)

vijaya