



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

WRIT PETITION NO. 1052 OF 2025

M/s Samadhan Marketing & Merchandise Pvt. Ltd. ... PETITIONER

Versus

Nandkumar Giridharbhai Popat & Ors. ... RESPONDENTS

Dr. Mrs. R. S. Sirpurkar, Advocate for Petitioner.

CORAM : ANIL L. PANSARE, J.

DATE : MARCH 05, 2025.

ORAL ORDER

. Heard Mrs. R. S. Sirpurkar, learned Counsel for Petitioner.

2. The challenge is to the order dated 6/2/2025 passed below Application (Exhibit-278) by the 3rd Joint Civil Judge Senior Division, Chandrapur in Special Civil Suit No. 28/2019, thereby rejecting the application preferred by the Petitioner/Original Plaintiff under Order 6 Rule 17 of the Code of Criminal Procedure, 1908 (*for short, 'the Code'*). The trial court was of the view that the application lacks due diligence, and therefore, is hit by the proviso to Rule 17 of Order 6 of the Code.

3. The argument is that the cause to file application to amend the plaint arose only when the trial court framed additional issue, which reads thus :

“1-A. Whether the Plaintiff has filed this suit and represented through their authorized representative ?”

4. The learned Counsel for Petitioner submits that this issue had been framed in the light of evidence which includes cross-examination of the Plaintiff's witnesses. The trial court then held that the Plaintiff may re-examine Girish Chandak (PW-1), the authorized Director on the additional issue. The Plaintiff, prior to permitting Girish Chandak to enter witness-box, intends to amend the plaint in order to lead additional evidence. The proposed amendment reads as under :

“1-a) It is submitted that, registered office of company was at Jatpura Gate Nandniwas, Chandrapur. It is submitted that the said office was a corporate office of plaintiff company. Therefore plaintiff kept all the record at Nandniwas building. But due to the massive fire took place on dtd. 30/10/2016-31/10/2016 all the record kept at registered office i.e. Nandniwas in vanish due to fire.”

5. As could be seen, the Plaintiff intends to add that record of the Company was kept at the registered office at 'Nand Niwas', Jatpura Gate, Chandrapur and because of massive fire which took place in the intervening night of 30/10/2016 and 31/10/2016 the entire record kept at the office at 'Nand Niwas' vanished.

6. I have gone through the plaint to find that these pleadings are already there in paragraph No.5, wherein the Plaintiff has pleaded that there was a fire in the building of 'Nand Niwas' in the intervening night of 30/10/2016 to 31/10/2016. Further, in paragraph No.1, the Plaintiff has stated that the registered office is situated at 'Nand Niwas', Jatpura Gate, Chandrapur. The Plaintiff is occupying the said shop as a tenant and is

operating his business from the said shop. Thus, except the averment of loss of documents, the necessary pleadings have been made. The absence of pleadings as regards loss of documents, by itself, to my mind, will not be an impediment to the Plaintiff to lead evidence to deal with the additional issue.

7. It is well settled that the party should be permitted to enlarge in the evidence the aspect which already finds place in the pleadings. It is so, because every minute detail need not be pleaded in the plaint or written statement. That being so, I do not find any reason why should Plaintiff insist for amendment to the plaint. The trial court has correctly opined that the issues are framed from amongst the pleadings that are put-forth, and therefore, the contention that the cause to amend the plaint arose only after framing an additional issue will not be corrected. The Petitioner/Plaintiff may, however, lead additional evidence in the light of what has been stated above.

8. With the above observations, Writ Petition is dismissed.

(ANIL L. PANSARE, J.)

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