



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

WRIT PETITION NO. 1356 OF 2025

Jaikishor Brijkishor Jaiswal

... PETITIONER

Versus

Ashok Brijkishor Jaiswal & Ors.

... RESPONDENTS

Mr. Nitin Jaiswal, Advocate for Petitioner.

Ms. M. S. Naik, AGP for Respondent Nos.8 to 14.

CORAM : ANIL L. PANSARE, J.

DATE : MARCH 13, 2025.

ORAL ORDER

. Heard Mr. Nitin Jaiswal, learned Counsel for the Petitioner and Ms. M. S. Naik, learned AGP for the Respondent Nos.8 to 14.

2. The reason why the trial court allowed the application seeking amendment filed by the Respondent No.1/Original Plaintiff is that, in a suit for partition, unless the question of validity of the Will, on the basis of which, the Petitioner/Original Defendant No.6 is claiming absolute right over the property is answered, the Court may not be able to pass decree for partition. In other words, the trial court held that since the amendment goes to root of the case, it should be allowed.

3. This finding finds support of the Judgment of Hon'ble Supreme Court in the case of *Dinesh Goyal alias Pappu V/s Suman Agarwal (Bindal)*

and Others, 2024 SCC OnLine SC 2615, wherein in identical situation, the Supreme Court held thus :

“17. Any and all delays in judicial processes should be avoided and minimised to the largest extent possible, and should generally be, and are rightly frowned upon. However, not in all cases can delay determine the fate of a Suit. The defendant submits that the time gap between submitting the written statement to the Suit and the presentation of the application seeking leave to amend is unexplained. If this argument of the defendant is accepted, the question of Will shall remain undecided or at best will be decided with great delay. The trial which has admittedly already commenced, would be stalled by way of a challenge to the framing of issues which, in turn, would not be in consonance with the object of Order VI Rule 17 of CPC which is aimed at preventing multiplicity or multiple avenues of litigation, subsumed under the umbrella of one dispute.

18. Keeping in view the above, along with the fact that without determination of the question of Will and its genuineness, the partition of the Suit property would not be possible, we do not find any infirmity in the order of the High Court, allowing the amendment setting aside refusal of the Trial Court to grant such amendment.”

4. In view of above, the order impugned appears to be in consonance with the settled principles of law. No interference is called for in the supervisory jurisdiction. The Writ Petition is dismissed in *limine*.

(ANIL L. PANSARE, J.)