



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

WRIT PETITION NO.2066/2025

Dilip Uttamrao Chhabile and Ors. Vs. Pandharinath Narayan Deokar and Ors.

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

Court's or Judge's orders

Ms R. G. Bajaj, Advocate for petitioners.

CORAM : ANIL L. PANSARE, J.

DATE : APRIL 16, 2025

Heard.

2. The Trial Court has rejected the application seeking amendment to plaint on the ground of failure of petitioners-plaintiffs to justify the delay.

3. The petitioners have filed a suit for removal of encroachment and for recovery of possession. By way of amendment, the petitioners intended to put forth boundaries of the plots owned by the respective petitioners.

4. Counsel for the petitioners submits that this amendment was necessary for effective implementation of the decree, if passed in favour of the petitioners. In other words, the counsel submits that the amendments were necessary and would rule out the possibility of further litigation.

5. In support, she has relied upon judgment in **Dinesh Goyal alias Pappu Vs. Suman Agrawal (Bindal) and Ors. [2024 SCC OnLine SC 2615]**, wherein the Court referred to its earlier judgments, which culled out certain principles on the basis of the judicial precedents. Relevant portion of paragraph 11 reads thus:

“11.

(iv) *Some general principles to be kept in mind are -*

(I) *The court should avoid a hyper-technical approach; ordinarily be liberal, especially when the opposite party can be compensated by costs.*

(II) Amendment may be justifiably allowed where it is intended to rectify the absence of material particulars in the plaint or introduce an additional or a new approach.

(III) The amendment should not change the cause of action, so as to set up an entirely new case, foreign to the case set up in the plaint.”

6. Issue notice to the respondents, returnable in four weeks. The petitioner shall, however, deposit an amount of Rs.15,000/- with the Court, within two weeks from today.

7. In the meantime, there shall be stay to the proceedings being Regular Civil Suit No.52/2008, pending before Civil Judge Junior Division, Mehkar.

(Anil L. Pansare, J.)

Kahale