



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

950 WRIT PETITION NO. 4962 OF 2025

Saroj Krishnan Kutti Throu Her Gpa Naser Gani Khan

VERSUS

Patric Joseph Alias Patric Keshavan

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Advocate for Petitioner : Mr. B.N. Magar

Advocate for Respondents : Mr. S.V. Gundre

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : April 01, 2026

ORDER :-

1. Present writ petition takes exception to the order dated 5.9.2024 passed below Exhibit-22 by the learned Joint Civil Judge S.D. Ahmednagar in Special Civil Suit No.299 of 2022, thereby application filed by the respondent/plaintiff seeking amendment in the plaint is allowed.

2. The respondent/plaintiff instituted suit for recovery of possession of the suit property. The petitioner appeared in the suit and filed Written Statement asserting his tenancy right over the suit property. The respondent filed her evidence affidavit in suit but before cross-examination is started, he filed application under Order VI Rule 17 of the Civil Procedure Code

seeking amendment in plaint. The Trial Court allowed said application vide order dated 5.9.2024.

3. Learned counsel appearing for petitioner submits that the amendment is sought at belated stage. The respondent/plaintiff is trying to change nature of the suit. Further, trial is commenced, hence, proviso to Rule 17 Order 6 of Civil Procedure Code would apply.

4. Learned counsel appearing for the respondent supports the impugned order.

5. The respondent pleaded that she acquired ownership of property on the basis of sale-deed, however, by way of amendment, she sought to insert paragraph that the suit property was originally owned by Armed Static Workshop Housing Society, Bhingar and said society had allotted plots to its member namely Pramila. However, she could not complete construction within the specified time. Hence, it was allotted to plaintiff. As such, plaintiff claims ownership and possession over suit property.

6. The aforesaid amendment would not change nature of the suit. Plaintiff is seeking recovery of possession of the suit

property. Even, it is assumed that she has acquired ownership in pursuance to allotment by society, she has right to seek recovery of possession. Pertinently, petitioner had also claims that said property was owned by the Society. In this backdrop, this Court finds that no prejudice is caused to the petitioner. Second contention that amendment is sought after commencement of trial cannot be accepted. Admittedly, cross-examination of plaintiff was not yet began, hence trial was yet to begin. The proviso under Rule 17 of Order 6 has no application at this stage of suit. Hence, this Court finds that there is no merit in the writ petition, however, since amendment was sought at belated stage some costs ought to have been awarded to the petitioner/defendant. Hence, writ petition stands **dismissed**, however, the respondent shall pay the costs of Rs.5,000/- (Rs. Five Thousand) to the petitioner for delay in seeking amendment. The costs to be deposited within a period of two weeks from today before the Trial Court. Same be disbursed to petitioner.

(S. G. CHAPALGAONKAR, J.)

aaa/-

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