



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 12068 OF 2024

Pratibha Bhalchandra Kavale And Others
VERSUS
Anita Rajkumar Khatke And Others

Mr.Ajinkya A. Joshi, Advocate h/f. Mr.S.V.Natu, Advocate for petitioners
Mr.K.T.Taur and Mr.K.T.Jamdar, Advocates for respondents

CORAM : AJIT B. KADETHANKAR, J.
DATE : APRIL 08 2026

PER COURT :-

Heard.

2. In Special Civil Suit No.128 of 2017, an application (Exh.69) was filed by the defendants to bring on record the legal representatives of defendant no.1 namely Sushila Narsing Bandgar. It was submitted that during pendency of the suit, Sushila died. Besides bringing legal representatives on record, a will deed purportedly executed by Sushila in favour of defendant nos.6 and 7 was also sought to be brought on record. After hearing the parties, vide order dated 24.11.2022, learned Civil Judge, Senior Division, Latur, allowed the application (Exh.69) and granted permission to amend the written statement. Accordingly, the written statement was amended. Thereafter, since a new case referring to the will deed has come on record, obviously the petitioners filed an

application under Order 6 Rule 17 of the Code of Civil Procedure to amend the plaint. Since the amendment sought by the plaintiff was consequent to the amendment sought by the defendants pursuant to the death of Sushila, the trial court after hearing the parties allowed the application filed by the plaintiff vide order dated 06.03.2023. Vide the said order, the plaintiff was permitted to amend the plaint. Since the plaint was amended, the defendants needed to amend their written statement to counter the amended part of the plaint. Hence, an application (Exh.84/D) was filed by the defendants before the trial court. The trial court, however, vide order dated 05.08.2023 recorded that the application was vague and no details were given about the proposed amendment sought to be incorporated in the written statement. As such, the application filed by the defendants came to be rejected.

3. Learned counsel for the petitioners invites my attention to page no.38 of the Writ Petition compilation, wherein amendment is descriptively drafted in the application seeking permission to amend the written statement. He would submit that the application was meticulously drafted and the portion which the defendants wished to amend was also clearly drafted. He would submit that the observations of the learned trial court are perverse to the record, i.e.

the application that was filed for amendment in the written statement.

4. With the able assistance for learned counsel for the petitioners, I have gone through the contents of the application. It appears that the defendants have directly filed a copy of the amended written statement. It is not clear as to which pleadings are sought to be granted. I find that the trial court has rightly observed that the details of the proposed amendment sought in the written statement are not provided. Learned counsel submits that he may be permitted to file a fresh application seeking amendment in the written statement in the light of the amended plaint. He would submit that the petitioners would meticulously provide the proposed amendment in the application.

5. Learned counsel for the respondent fairly submits that if such application is filed by the petitioners, the trial court may be directed to decide the same as expeditiously as possible.

6. The thing is that the plaintiff has amended his plaint. It is but obvious that the defendants must get an opportunity to amend their written statement to counter the amended portion of the plaint. In view of this, Writ Petition stands dismissed with leave to the

petitioners to file an application afresh seeking amendment in the written statement pursuant to the amendment in the plaint. If such an application is filed by the petitioners within one month from today, the trial court shall pass appropriate order in the light of the observations made by this court in this order.

[AJIT B. KADETHANKAR, J.]

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