



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

13 WRIT PETITION NO. 12413 OF 2025

Ashok Daulat Borse And Another
VERSUS
Nirmalabai Dinkar More And Others
...
Advocate for Petitioners : Mr. S.S. Patil
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CORAM : S. G. CHAPALGAONKAR, J.

Dated : January 12, 2026

PER COURT :-

1. The present writ petition seeks to challenge the order dated 7.12.2024 passed by the learned Civil Judge S.D. Dhule, below Exhibit 21 in Special Civil Suit No.404 of 2022, by which the application for amendment of plaint submitted by respondent nos.1 and 2 has been allowed.

2. Respondent nos.1 and 2 instituted the suit for partition and separate possession of the ancestral property. They pleaded that on 26.6.2019 they sent a notice by registered post to defendants seeking partition, however, it was not acted upon hence, cause of action arose to file present suit. Admittedly, Trial in the suit is yet to be commenced. Even, issues are not framed till this date.

3. At this stage, respondents/plaintiffs filed application below Exhibit-21 under Order VI Rule 17 seeking amendment in plaint. The Trial Court allowed application vide impugned order dated 7.12.2022.

4. Mr. Patil, learned advocate appearing for petitioners would submit that plaintiffs have sought amendment as to material particulars in the plaint and practically seeking to replace entire plaint. In such a contingencies, prayer for amendment could not have been entertained by the Trial Court. Mr. Patil, would further submit that cause of action as depicted in paragraph no.1 of the plaint is now changed by incorporating that cause of action arose subsequently. He would therefore urge that such an amendment would not have been allowed.

5. It is trite that amendment in the pleadings shall generally be allowed unless such an amendment is inconsistent with the original pleadings or seeks to withdraw the admission or changes the nature of the suit.

6. In the present case, looking to the proposed amendment, it cannot be said that the plaintiffs are seeking to withdraw any

admission or raising inconsistent pleas. The law on the point of grant or refusal of the amendment has recently been elaborated by the Hon'ble Supreme Court in case of **Life Insurance Corporation of India Vs. Sanjeev Builders Private Limited** and another reported in (2022) 8 SCR 1121.

7. In light of the proposition of law laid down by the aforesaid judgment, liberal approach is required to be adopted in the matter of grant of amendment subject to aforesaid exception. The trial court has applied the aforesaid parameters by relying upon the observations of the Supreme Court in case of **Revajetu Builders and Developers Vs. Narayanswami and Sons and others** reported in [(2009) MLJ online SC 12: (2009) 10 SC 84] and allowed the amendment, as prayed. No jurisdictional error has been brought to the notice of this Court so as to cause interference in the impugned order.

8. In that view of the matter, writ petition stands **rejected**.

(S. G. CHAPALGAONKAR, J.)

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