

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

WRIT PETITION NO.5107 OF 2014

Madhukar s/o Dhondiba Janrao,
Age 64 years, Occu. Agri.,
R/o Wadgaon (S) Taluka and
District Osmanabad

..Petitioner

Versus

1. Saraswatibai w/o Lalchand
Waghmare, Age 70 years,
Occu. Household
R/o Devi road, Kathare Building,
Osmanabad, Taluka and District
Osmanabad
2. Mukund s/o Panditrao Kadam,
Age 34 years, occu. Rickshaw Driver,
R/o Swarget Police Vasahat
Building No.9, Opp. of Swarget
Bus Stand, Pune, at present
Devi road, Osmanabad,
District Osmanabad
3. Kankubai w/o Panditrao Kadam,
Age 55 years, Occu. Household
R/o as above

.. Respondents

Mrs M.A. Kulkarni, Advocate h/f Mr A.M. Kulkarni, Advocate for
petitioner
Mr J.R. Patil, Advocate for respondents No.1 to 3

CORAM : N.W. SAMBRE, J.

DATE : 18th November 2015

PER COURT

Heard.

2. The petitioner, an unsuccessful plaintiff preferred Regular Civil Appeal No.107 of 2012 in which an application under Order VI, Rule 17 of the Code of Civil Procedure for amendment of plaint has been moved. The said application is rejected by the learned lower appellate Court on 17th March 2014, which is impugned in the present petition.

2. Learned Counsel for the petitioner Mrs Kulkarni would urge that in view of discovery of certain new facts and the documents, the petitioner intend to amend the plaint. According to her, as regards adoption though was pleaded, however, so as to agitate the same with better basis of evidence, the amendment is required, which ought to have been granted by the Court below.

3. The prayer is opposed by Mr Patil, learned Counsel for the respondents on the ground that the specific issue as regards adoption of father of defendant No.1 was framed and adjudicated upon.

4. Having bestowed my anxious consideration to the submissions made by respective parties, it is noticed that the issue raised before this Court and the fact as regards framing of specific issue as regards adoption of father of defendant No.1, in my opinion, was dealt with by the Court below and has rightly rejected the application.

5. No case for interference is made out. Writ Petition fails, stands dismissed.

(N.W. SAMBRE, J.)

vvr