

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

WRIT PETITION NO.7085 OF 2015

Kishanrao Annarao Pujari,
(died) Through his L.Rs.

1. Digambar Kishanrao Pujari,
Age: 58 years, Occ: Agri.,
R/o. Achler, Tal. Lohara Bk.
Dist. Osmanabad.
2. Rajendra Kishanrao Pujari,
Age: 55 years, Occ: Agri.,
R/o. Achler, Tal. Lohara Bk.
Dist. Osmanabad.
3. Sanjay Kishanrao Pujari,
Age: 52 years, Occ: Agri.,
R/o. Achler, Tal. Lohara Bk.
Dist. Osmanabad.
4. Chandrakant Kishanrao Pujari,
Age: 50 years, Occ: Agri.,
R/o. Achler, Tal. Lohara Bk.
Dist. Osmanabad.
5. Mahesh Kishanrao Pujari,
Age: 48 years, Occ: Agri.,
R/o. Achler, Tal. Lohara Bk.
Dist. Osmanabad.

...Petitioners

versus

Bharat Gunderao Pujari,
Age: 60 years, Occ: Agri.,
R/o. Achler, Tal. Lohara Bk.
Dist. Osmanabad.

...Respondent

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Mr. V.S. Undre, Advocate for petitioners
Mr. Shoyab Shaikh, Advocate for respondent

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CORAM : N.W. SAMBRE, J.

DATE : 8th DECEMBER, 2015

ORAL ORDER :

Regular Civil Suit No. 256 of 2008 is preferred by the present petitioners for perpetual injunction and declaration of ownership, by mentioning details of the suit property. It is initially mentioned as on the northern side Pothissa No.6/3, which was subsequently amended to Pothissa No. 6/4.

2. By application Exhibit-152, the said Pothissa on the northern side No.6/4 is sought to be amended to Pothissa No.6/2, which amendment is rejected by learned trial Court, by an order dated 15/04/2015, as such, present writ petition.

3. The rejection of the application for amendment is based on the fact that the trial of the suit has commenced and the petitioners-plaintiffs have already amended the suit twice.

4. In my opinion, the observations as regards commencement of trial appears to be vague, as the stage of which suit has reached, is not mentioned in the order impugned. Learned Counsel before the Court are in agreement that the suit has not reached at advantaged stage.

5. In view of above, pursuant to Order 6 Rule 17 of the

Code of Civil Procedure, the amendment should have been considered, which, in my opinion, hardly changes the nature of the suit.

6. As such, the application Exhibit-152 for grant of amendment, though is strenuously opposed by learned Counsel for the respondent, is granted by quashing order dated 15/04/2015 subject to payment of costs of Rs.7000/- (Rs. Seven thousand only), to be deposited before the trial Court within four weeks from today.

7. The amendment be carried out after deposit of the amount of costs forthwith and present respondent-defendant will be entitled to withdraw the same.

8. The writ petition is allowed in above terms.

[N.W. SAMBRE, J.]