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

WRIT PETITION NO.7654 OF 2012

Sow. Shakuntala w/o Rajendra Shinde ..PETITIONER

VERSUS

Sow. Minakshi w/o Rajendra Jadhav
and anr. ..RESPONDENTS

Mr H.B. Nandagawale, Advocate holding for Mr V.G. Sakolkar, Advocate
for petitioner;
Mr V.D. Gunale, Advocate for respondents no.1 & 2

CORAM : N.W. SAMBRE, J.
DATE : 2nd December, 2015

ORAL ORDER :

By the present petition, the petitioner-original plaintiff, has challenged the order dated 1st September, 2012, passed by 2nd Joint Civil Judge Junior Division, Latur, below Exh.63, in Regular Civil Suit No.142 of 2010, whereby the prayer of the petitioner for amendment of plaint, under Order VI, Rule 17 of the Code of Civil Procedure, came to be rejected.

2. It is the case of the petitioner that for deciding the real controversy between the parties, the sale deed executed by defendant no.2 in favour of defendant no.1, is required to be set aside and as such, the amendment is necessary.

3. It is required to be noted that originally the petitioner filed a suit for perpetual injunction simpliciter, without seeking any declaration.

(2)

Subsequent thereto, the petitioner is trying to question the sale deed dated 29th March, 2008, bearing No.1373, executed by defendant no.2 in favour of defendant no.1. Challenge to the sale deed by the petitioner by way of amendment is rightly rejected. The fact of execution of the sale deed was within knowledge of the petitioner at the time of filing of the civil suit. The claim for injunction simplicitor was based on title which was assumed in favour of respondent by petitioner

4. Learned Trial Court has given sound reasons for rejection of the application. One more aspect of the matter, of which this Court must take note of is that, the trial of the suit is at advanced stage.

5. In that view of the matter, petition stands dismissed with no order as to costs.

(N.W. SAMBRE, J.)

amj