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

WRIT PETITION NO.9395 OF 2014

Sau Manjulabai Anandrao Gade,
Age: 85 years, Occu: Household,
R/o. Parimal Apartments,
Opposite Rathi Amrai,
Old Gangapur Naka, Gangapur Road,
Nashik, District Nashik

..PETITIONER

VERSUS

1. Shri Anandrao Namdeo Gade,
Since deceased through
Legal Representatives
- 1A. Shri Sampat Anandrao Gade,
Age: 59 years, Occu:
R/o.: Parimal Apartments,
Old Gangapur Naka, Gangapur Road,
Nashik, District Nashik
- 1B Shri Vilas Anandrao Gade,
Age: 51 years, Occu: Household,
R/o.: At Chasnali,
Taluka Kopargaon,
District : Ahmednagar
- 1C. Shri Shivaji Anandrao Gade,
Age: 62 years, Occu:
R/o.: Sudarshan Colony,
Peth Road, Panchavati,
Nashik
- 1D. Suvarna Sachine Wagh,
Age: 29 years, Occu:
R/o.: Flat No. 7, Gurudhan apartments,
Ganeshwadi, Panchavati,
Nashik
- 1E. Swati Yogesh Pawar,
Age: 28 years, Occu:
R/o.: 1036/1, Ganesh Colony,
Vijay Nagar, Kalewadi,
Pimpri Chinchwad, Pune 17

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- 1F. Prashant Vijay Gade,
Age: 25 years, Occu:
- 1G. Varsha Vijay Gade,
Age: 48 years, Occu:
Both R/o. Nadhe Nagar,
House No. 899, Kalewadi,
Ajinkya Colony, Pimpri Chinchwad,
Pune – 17
- 1H. Sau Vimal Shankarrao Aher,
Age: 63 years, Occu: Household,
R/o. : Shejwal Row House,
Makhmalabad Road,
Nashik
- 1I. Sau Shakuntala Gangadhar Nikam,
Age: 55 years, Occu: Household,
R/o.: At Vithewadi, Zire Pimpal,
Taluka Deola, District Nashik
2. Shri Sampat Anandrao Gade,
Age: 59 years, Occu:
R/o. Parimal Apartments,
Opposite Rathi Amrai,
Old Gangapur Naka, Gangapur Road,
Nashik, District Nashik
3. Shri Vilas Anandrao Gade,
Age: 51 years, Occu: ,
R/o. Chasnali,
Taluka Kopargaon,
District : Ahmednagar
4. Shri Shivaji Anandrao Gade,
Age: 62 years, Occu: ,
R/o.: Sudarshan Colony,
Peth Road, Panchavati,
Nashik
5. Suvarna Sachine Wagh,
Age: 29 years, Occu: ,
R/o.: Flat No. 7, Gurudhan Apartments,
Ganeshwadi, Panchavati,
Nashik

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6. Swati Yogesh Pawar,
Age: 28 years, Occu: ,
R/o.: 1036/1, Ganesh Colony,
Vijay Nagar, Kalewadi,
Pimpri Chinchwad, Pune 17
7. Prashant Vijay Gade,
Age: 25 years, Occu:
8. Varsha Vijay Gade,
Age: 48 years, Occu: ,

Both R/o. Nadhe Nagar,
House No. 899, Kalewadi,
Ajinkya Colony, Pimpri Chinchwad,
Pune – 17

..RESPONDENTS

Mr Mukul S. Kulkarni, Advocate for petitioner

CORAM : N.W. SAMBRE, J.

DATE : 20th November, 2015

ORAL ORDER :

By order dated 11th June, 2014, the application (Exh.39), in Regular Civil Suit No.263 of 2011, seeking amendment of plaint in a suit for partition and separate possession, came to be rejected by Joint Civil Judge Junior Division, Kopergaon. Thus, the present petition by the plaintiff.

2. Mr Kulkarni, learned Counsel appearing on behalf of the petitioner, while trying to make out a case for grant of amendment, would urge that as the trial in the suit has not commenced, amendment should have been granted, having liberal approach in the matter. He would then urge that defendants no.2, 5, 6, 7 and 8 have already given no objection to the

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amendment and the petitioner, an un-educated old lady is entitled to correct the pleadings, as is sought in the amendment.

3. Learned Trial Court, while dealing with these submissions, is of the opinion that if the proposed amendment is taken into account, the same amounts to withdrawing certain admissions given by the plaintiff.

4. Having considered the nature of amendment, particularly in the light of the pleadings in the plaint, in my opinion, the Trial Court has taken a correct approach. No illegality is noticed in the impugned order, warranting interference in the extraordinary jurisdiction.

5. In the result, petition fails and stands rejected with no order as to costs.

(N.W. SAMBRE, J.)

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