

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.6325 OF 2015

Shrikant Krushnaji Kulkarni : Petitioner.
Versus
Vishwanath Vishnu Kulkarni
since deceased
Madhukar Krishnaji Kulkarni and anr. : Respondents.

Mr. Tanaji Mhatugade for the Petitioner.

CORAM : R. M. SAVANT, J.
DATE : 08th September 2015

P.C.

1 The order dated 09/04/2015 passed by the learned 5th Joint Civil Judge, Junior Division, Kolhapur allowing the Application (Exhibit 93) for amendment of the plaint is taken exception to by way of the above Petition.

2 By the said application (Exhibit 93) the plaint was sought to be amended so as to include another property being Gat No.379 admeasuring 1 Hecter 27.5 Ares to the extent of the Plaintiffs' share i.e. to the extent of 5 Annas and 4 Paise on the western side. The suit in question has been filed for possession and the property which is the subject matter of the amendment application i.e. Gat No.379 was not included in view of the fact that another proceeding being Regular Civil Suit No.522 of 2003 was going on. The suit came to be decreed as also the Appeal was thereafter decided on 17/11/2014 and the present Plaintiffs were directed to adopt appropriate proceedings for

the relief of possession which they are seeking. It is after the adjudication by the Lower Appellate Court on 17/11/2014 that the instant application came to be filed on 21/01/2015.

3 The Trial Court has allowed the said application (Exhibit 93) on the ground that the evidence has not commenced and for the delay caused in moving the application, the Trial Court has imposed costs of Rs.1000/- on the Plaintiffs. It is well settled that the amendment which leads to effectual and complete adjudication of the dispute between the parties is required to be allowed. In the instant case, as indicated above, the Plaintiffs have sought inclusion of one additional property i.e. Gat No.379 which according to the Plaintiffs is in possession of the Defendant. The suit being one for possession. The Trial Court was right in allowing the application for amendment so as to avoid multiplicity of the proceedings. Hence no case for interference in the writ jurisdiction of this Court is made out. The above Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]

Certified to be true and correct copy of the original signed order.