

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

WRIT PETITION NO.9384 OF 2012

Nagesh Dattaram Prabhu

(Since deceased through legal heirs)

Smt. Lalita Nagesh Prabhu and others

.. Petitioners

Versus

Narendra Mahadev Prabhu and others

.. Respondents

Ms. Neeta Karnik, for the Petitioners.

Mr. S. M. Sabrad, for the Respondent Nos.3 to 7 & 9 to 12.

Mr. Sachin S. Punde, for the Respondent No.19.

CORAM : R.M. SAVANT, J.

DATE : 15th SEPTEMBER, 2015

PC.

1. The Writ Jurisdiction of this Court is invoked against the order dated 21.07.2012 passed by the Learned Civil Judge Junior Division, Sawantwadi, by which order the application Exh.212 filed by the Petitioners for amendment of the plaint came to be rejected. The Petitioners herein are the original Plaintiffs in Regular Civil Suit No.31 of 1998 which they have filed for partition and declaration.

2. The Learned Counsel for the Petitioners Ms. Neeta Karnik after arguing for some time on instructions of the Petitioner No.4 Mr.

Deepak Nagesh Prabhu who is personally present in Court states that the Petitioners would withdraw the said Application Exh.212 and would file a concise application seeking amendments to the plaint in terms of the amendment sought vide instant Application Exh.212. In view of the said statement made by the Learned Counsel, it is not necessary to consider the impugned order on merits. The impugned order to accordingly stand set aside. The Petitioners would be at liberty to file a fresh application seeking amendments to the plaint. The same to be done within four weeks from date. If any such application is filed within four weeks from date, the Trial Court would consider the same within eight weeks of the filing of the application by giving proper opportunity to the parties.

3. Needless to state that the said application would be tried on its own merits and in accordance with law uninfluenced by the impugned order or the instant order. The contentions of the parties are explicitly kept open for being urged before the Trial Court. The Counsel appearing for the Respondents have no objection to the said course of action being followed. With the aforesaid directions, the Writ Petition is disposed of.

[R.M. SAVANT, J]

CERTIFICATE

Certified to be true and correct copy of the original signed
Judgment/Order.