

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

WRIT PETITION STAMP NO.32668 OF 2014

Savita Tanaji Jadhav and ors. : Petitioners.

Versus

Maruti Rangnath Jadhav and ors. : Respondents.

Mr. Rajshekhar S Alange for the Petitioners.

CORAM : R. M. SAVANT, J.

DATE : 10th February 2015

P.C.

1 The writ jurisdiction of this Court is invoked against the order dated 11/10/2014 passed by the learned Civil Judge, Senior Division, Solapur by which order the Application (Exhibit 120) for amendment of the plaint came to be rejected.

2 The suit in question has been filed by the Petitioners herein i.e. the original Plaintiffs for partition of the suit property being City Survey No.2084 having House No.277 admeasuring 104.08 square meters excluding an area of 37.17 square meters in the East-South corner, and therefore, for the remaining area of 66.91 square meters. Hence the said area of 33.17 square meters was consciously excluded by the Plaintiffs at the time of filing of the suit. In so far as the said area of 37.17 square meters is concerned, it appears that the deceased Sushilabai Jadhav who is the grand-mother of the Plaintiffs had gifted the said property admeasuring 37.17 square meters to one Nagnath

Jadhav, who is the cousin of the Plaintiffs, in the year 1999. The Plaintiff did not question the ownership of the said Sushilabai Jadhav in respect of the said area in her life time nor did they challenge the Gift Deed till the amendment was sought in the instant suit.

3 The Trial Court having regard to the fact that the Plaintiffs had at the time of filing of the suit, consciously excluded the said area of 33.17 square meters probably in view of the Gift Deed executed by their grand-mother in favour of the said Nagnath Jadhav did not deem it appropriate to allow the Application (Exhibit 120) for amendment of the plaint. No fault can be found with the order passed by the Trial Court rejecting the application for amendment.

4 No case for interference in the writ jurisdiction of this Court is therefore made out. The above Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]