

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 400 OF 2015**

Putalabai Sitaram Pawar & Ors.

..Petitioners

Vs.

Jalindar Anna Patil & Ors.

..Respondents

Mr. Vikas Kolekar for the Petitioners

**CORAM : R. M. SAVANT, J.
DATE : 19th JANUARY, 2015**

P.C.

1 The order dated 19-12-2014 passed by the Lower Appellate Court i.e. the Learned District Judge-II, Islampur, rejecting the application Exhibit 112 filed by the Petitioners i.e. the Respondent No.1(d),(e) and (f) in Regular Civil Appeal No.56 of 2006, is taken exception to by way of the above Petition.

2 The said application has been filed on the basis that after the amendment in the plaint the Petitioners/ Applicants have filed additional Written Statement and to that effect they want to lead additional evidence and necessary issue be framed by considering their pleadings. It is their contention that the Plaintiffs have deleted the suit properties at Sr. No.28 and 29 and therefore the Suit is bad for non inclusion of the said properties. The Lower Appellate Court adverted to the fact that the dispute is only in respect of tenanted property being Gat No.101 which the Plaintiffs claim to be a joint family property and the Defendant No.1 claims as his self acquired property.

The Lower Appellate court has further observed that the Plaintiffs have deleted the other properties and the Defendants are also not alleging that Gat No.140 and Gat No.142 are ancestral properties. Hence there is no question of framing issues and permitting the Petitioners to lead evidence. Having regard to the aforesaid factual back drop, the order passed by the Lower Appellate Court rejecting the application filed by the Petitioners cannot be found fault with. No case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]