

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.837 OF 2015

1.Shri.Bhau Govind Rohane & Ors. ... Petitioners
Vs.
1.Shri.Shankar Kanu Gaikar (Deceased) through his
legal heirs & Ors. ... Respondents

Mr.Vijay V.Nene, for the Petitioners.

None for the Respondents.

CORAM : G. S. KULKARNI, J.

DATE : 25th FEBRUARY, 2015

P.C. :

1. This Writ Petition challenges the order dated 26.11.2014 passed by the learned Joint Civil Judge, Senior Division, Kalyan whereby the application filed by the plaintiffs under Order 6 Rule 17 of Civil Procedure Code seeking amendment of the plaint, stands rejected.

2. By the amendment application, the petitioners-plaintiffs intended to correct the description of the suit property as narrated in paragraph (1) of the plaint and prayed for certain consequential amendment.

3. Learned Counsel for the petitioners has invited my attention to the petitioners' case in the amendment application. The only reason set out to seek an amendment is inadvertent error on the part of the plaintiffs to inform to their Advocate about the correct description of the property.

4. Admittedly, the suit in question was filed in the year 2000. The defendants had made specific averments in the written statement in regard to the plaintiffs having sold certain portion of the land. The suit is at the stage of evidence, cross examination of the plaintiffs had commenced on 14.10.2014 and was completed on 3.11.2014. There are certain admissions which are recorded in the cross examination. The present application was moved after the cross examination of the plaintiffs was completed and came to be filed on 15.11.2014.

5. Considering the aforesaid facts and having perused the impugned order which is a reasoned order, I do not feel that there is any perversity in the impugned order passed by the learned Trial Judge rejecting the petitioners' application. The solitary reason given by the petitioners that they had inadvertently failed to give correct instructions, also does not appear to be convincing, notably when the defendant had specifically pleaded about sale of certain portion of the land in question.

6. Writ petition is devoid of merits and the same is summarily rejected. No order as to costs.

(G.S.KULKARNI, J.)