

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

WRIT PETITION NO.1739 OF 2015

Savjibhai V Chouhan : Petitioner.
Versus
M/s. Janata Co-operative Dairy
Society Ltd
Through their authorized signatory
Ali Mohammad Noor Mohammad Kadiwal
and ors. : Respondents.

Mr. A G Damle Senior Advocate i/by Mr. Satish L Mody for the Petitioner.
Mr. K I Khandelwal for the Respondent No.1.
Mr. Girish M Agrawal for the Respondent Nos.3 to 8.

CORAM : R. M. SAVANT, J.
DATE : 02nd March 2015

P.C.

1 The writ jurisdiction of this Court is invoked against the order dated 20/11/2014 passed by the learned 5th Civil Judge Junior Division, Thane by which order the Application (Exhibit 39) filed by the Plaintiff for amendment of the plaint came to be allowed and the Plaintiff was permitted to amend the plaint so as to raise a challenge to the sale deed dated 22/3/2013 executed by the Defendant Nos. 2 to 17 in favour of the Defendant No.19.

2 The Trial Court had deemed it appropriate to allow the said Application (Exhibit 39) on the ground that no prejudice would be caused to the Defendants and that the same would result in avoidance of multiplicity of proceedings.

3 In my view, no exception could be taken to the impugned order allowing the amendment application (Exhibit 39). However, though the Trial Court has permitted the said amendment, the Trial Court would consider whether on such amendment being carried out, the suit remains within its pecuniary jurisdiction. The amendments which are allowed to be incorporated would also operate from the date of the said amendment and would not operate from the date of filing of the suit. The contentions of the parties on merits in respect of the amended portion are kept open for being urged before the Trial Court. With the aforesaid observations, the above Writ Petition is disposed of.

[R.M.SAVANT, J]