

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

WRIT PETITION NO. 2782 OF 2015

Mrs.Lekha Farook Alam Khan & anr. ... Petitioners

v/s

Nawab Mir Usman Alam Khan & ors. ... Respondents

Mr.G.N. Salunke for the petitioners.

Ms.R.C. Nichani for the respondent No.1.

Mr.Yusuf Iqbal Yusuf along with Neville Majra i/by Yusuf & Associates for the respondent Nos.2 and 3.

CORAM: NITIN M. JAMDAR, J.

DATED : 23RD MARCH, 2015

P.C.:

By this petition, the petitioners challenge the order passed by the learned Appellate Bench of the Small Causes Court, Mumbai, in Revision Application No.295 of 2014, dated 15 January 2015, allowing the respondents to amend the written statement.

2. The learned Small Causes Court Judge, Mumbai, by his order dated 22 September 2014, rejected the amendment application. The learned Small Causes Court Judge held that, the grounds sought to be raised in the application for amendment were not relevant for consideration of the controversy in question. In the

revision, the Appellate Bench came to the conclusion that the amendment requires to be granted by imposing costs. The learned revisional Court came to the conclusion that the Small Causes Court Judge had misdirected himself by going into the merits of the amendment.

3. The view taken by the Appellate Bench cannot be faulted with. The learned Appellate Bench has granted the amendment by imposing costs. The merits of the amendment sought cannot be gone into at this stage as both the parties will have opportunities to put-forth their case as regard the amended portion. The argument sought to be advanced by Mr.Salunke, learned counsel for the petitioners, relate to the merits of the amended portion. These argument can be advanced by the petitioners in the Trial Court.

4. All contentions of the parties as regard the amended portion are kept open. It will be open to the petitioner to file such an additional affidavit, if required, to counter the case put-forth by the respondents by way of amended written statement.

5. The writ petition is rejected with above clarification.

(*NITIN M. JAMDAR, J.*)