

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4087 OF 2015

Ramdas K. Patole and anr. .. Petitioners
vs.
Santu K. Telore and ors. .. Respondents

Mr. PL. Bhujbal for the Petitioners.

CORAM : M. S. SONAK, J.
DATE : 21 April, 2015.

P.C. :-

1] This petition challenges the order dated 17 March 2015, by which the Joint Civil Judge, Junior Division, Igatpuri has rejected the petitioners' applications at Exhibits-142 and 144 seeking amendment of the Written Statement.

2] The amendment was applied for, at the stage, when the trial for suit was at an advanced stage. Further, the reason stated for seeking leave to amend is that the plaintiffs, during pendency of the suit, have by registered document agreed to sell the suit property in favour of some third party. The suit, as instituted by the plaintiffs, is for declaration and injunction. In such a suit, there is no reason to amend the written statement, in the context of the subsequent event. The leave to amend was, therefore, rightly declined.

3] The learned counsel for the petitioners, however, submitted that the amendment, if allowed would prevent the multiplicity of the proceedings. It is not possible to agree with the said submission. The amendment, if allowed, would perhaps introduce some new issue and some new controversy, which is not concerned with the cause of action, as originally pleaded in the suit. Besides, if the petitioners have any grievance with regard to the Agreement of Sale entered into by the plaintiffs, the petitioners, can always avail of an independent action in order to safeguard their rights, if any, to the suit property.

4] Accordingly, there is no jurisdictional error or perversity of approach in making the impugned order.

5] The petition is, accordingly, dismissed. There shall be no order as to costs.

(M. S. SONAK, J.)