

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION St. NO.17783 OF 2015**

Ulhas Ramu Kokane

..Petitioner

Vs.

Eknath Rambhau Fokane & Ors

..Respondents

Mr. Sachin Gite for the Petitioner

CORAM : R. M. SAVANT, J.

DATE : 14th SEPTEMBER, 2015

P.C.

1 The Writ Jurisdiction of this Court is invoked against the order dated 12-6-2015 passed by the Learned Joint Civil Judge Junior Division, Igatpuri, District Nashik, by which order, the application Exhibit 51 filed for amendment of the plaint came to be rejected.

2 The Suit in question has been field by the Petitioner / Plaintiff for declaration that the transaction of sale executed between the Defendants interse is void as also the so called power of attorney on the basis of which the Sale Deed was executed is a forged one. The Petitioner is the Plaintiff No.2 and the Respondent No.3 herein is the father of the Petitioner i.e. Plaintiff No.1. It is the case of the Petitioner / Plaintiff No.2 that the Power of Attorney on the basis of which the Sale Deed has been executed between the Defendants interse is a forged document. The Plaintiff therefore sought amendment of the

plaint so as to incorporate the amendments which are mentioned in the said application Exhibit 51 and has also sought transposition of his father who is the Plaintiff No.1 as a Defendant to the Suit.

3 The Trial Court considered the said application has rejected the same by the impugned order dated 12-6-2015. The Trial Court considered the amendments sought and juxtaposed the same with the averments which are already there in the plaint. The Trial Court was of the view that in so far as paragraphs 3, 5, 8 and 9 of the amendment application which the Plaintiff seeks to incorporate in the plaint, the facts pleaded therein are already on record and in so far as paragraphs 6 and 9 are concerned, the Trial Court was of the view that they are by way of evidence and that the Plaintiff can always lead evidence in that respect. In so far as transposition is concerned, the Trial Court was of the view that the burden in so far as the issue of the said Power of Attorney being a forged document is concerned, will always remain on the Plaintiff No.2 and the transposition would not make any difference.

4 In my view, having regard to the reasons mentioned by the Trial Court for rejection of the application, no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]

CERTIFICATE

Certified to be true and correct copy of the original signed order