

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

WRIT PETITION NO.8091 OF 2014

Vilas Haribhau Kulkarni : Petitioner
versus
Suhas Haribhau Kulkarni and ors. : Respondents.

Mr. Amit M Shete for the Petitioner.

CORAM : R. M. SAVANT, J.
DATE : 07th January 2015

P.C.

1 The order dated 18/6/2014 passed by the learned Civil Judge, Senior Division, Pandharpur allowing the Application (Exhibit 195) for amendment of the plaint is taken exception to by way of the above Petition.

2 The suit in question being Regular Civil Suit No.149 of 2012 has been filed by the Respondent No.1 i.e. the original Plaintiff for partition and possession of his 1/7th share in the suit properties which are more specifically described in the plaint. Amongst the suit properties is Gat No.276/2. The amendment sought is in respect of inclusion of the remaining portion of Gat No.276/2 which has been purchased by the daughter of the Defendant No.3 i.e. the Petitioner herein and her husband. It is the case of the Plaintiff that the income generated out of Hotel Nandanvan, which is the joint family property, has been utilized for the said purchase and that the transaction by the Defendant No.3 in favour of his daughter and her husband is a benami

transaction, and in fact it is the Defendant No.3 who is the owner of the property who has purchased the same out of the joint family income.

3 Having regard to the nature of the suit that is one for partition, the Trial Court deemed it appropriate to allow the Application for amendment.

4 Having regard to the well settled principles which are applicable to the consideration of an application under Order VI Rule 17 of the Code of Civil Procedure, the order passed by the Trial Court allowing the Application (Exhibit 195) cannot be faulted with. No case for interference in the writ jurisdiction of this Court is therefore made out. The above Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]